










Local Coastal Programs Handbook

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Introduction and Purpose

The Office of Coastal Management of the Louisiana Department of Natural Resources is charged with implementing the Louisiana Coastal Resources Program (LCRP) under authority of the Louisiana State and Local Coastal Resources Management Act of 1978, as amended (Act 361, La. R.S. 49:214.21 et seq).

This law seeks to protect, develop, and, where feasible, restore or enhance the resources of the state's coastal zone. Its broad intent is to encourage multiple uses of resources and adequate economic growth while minimizing adverse effects of one resource use upon another without imposing undue restrictions on any user. Besides striving to balance conservation and resources, the policies of the LCRP also help to resolve user conflicts, encourage coastal zone recreational values, and determine the future course of coastal development and conservation.

The purpose of this document is to review the ecological incentives, regulatory requirements, and technical procedures for operating an approved Local Coastal Program in the coastal zone of Louisiana. Every parish with an approved Local Coastal Program has assumed responsibility for balancing the use of coastal resources with the protection of the ecological integrity of those same resources. This task requires an awareness of wetland habitats, functions, and values, an understanding of the rules that regulate permitting and compensatory mitigation, and the knowledge and technical capabilities to determine the required compensatory mitigation.

There are many reasons why the proper operation of an approved Local Coastal Program is so very vital to the parish and state. The state has to prepare performance based reports (Legislative Performance Report and the Coastal Wetlands Conservation Plan Report) to the state legislature and various federal oversight agencies. The performance of our state and local programs can affect our federal funding levels. In addition, the Louisiana Coastal Protection and Restoration Authority and the US Army Corps of Engineers have been pursuing plans for the protection and restoration of coastal Louisiana. Toward this end Louisiana's comprehensive Master Plan for a Sustainable Coast has been developed. This plan contains significant civil works features, restoration of coastal wetland and non-structural, e.g. legislative, policy and administrative protection and restoration implementation actions. Louisiana's Governor, Mr. Bobby Jindal, has issued executive order BJ 2008-7 requiring all permitting within Louisiana to be in full compliance with Louisiana's master coastal protection and restoration efforts.

This portal will serve as a guide that you can reference as needed so that your parish can successfully implement management of the local coastal program in a manner consistent with the state of Louisiana's coastal program. It will assist you in enhancing your knowledge on wetland/coastal resources preservation and restoration principles.

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Legislative History

State Regulations

The Louisiana State and Local Coastal Resources Management Act of 1978

(<http://www.legis.state.la.us/lss/lss.asp?doc=103626>)

This act, referred to as SLCRMA represents the laws of this state regarding coastal zone management and protection. It includes the rules for the creation of:

- The Wetlands Conservation and Restoration Authority within the Office of the Governor;
- The Louisiana Coastal Wetlands Conservation and Restoration Program within the Coastal Restoration Division of the DNR; and
- The Louisiana Coastal Zone Management Program (CZMP) within the Office of Coastal Management of the DNR.
- The CZMP section of SLCRMA provides the state with the authority to establish:
 - Local coastal programs (LCP),
 - Special Area Projects and Programs,
 - Procedure for issuing Coastal Use Permits (CUP),
 - Intergovernmental coordination, and
 - Procedures for enforcing the CZMP.

Following the enactment of SLCRMA, regulations were written and approved which interpret the law and provide the details of its implementation. The Louisiana Administrative Code Title 42 Part 1 Chapter 7 describes the components of the CZMP including the coastal use guidelines, rules and procedures for CUPs, rules and procedures for mitigation, and the procedures for developing, approving, modifying, and reviewing the LCPs. (<http://doa.louisiana.gov/osr/lac/43v01/43v01-05.doc>)

It is the combination of the SLCRMA, the regulations, and other agreements that constitute the Louisiana Coastal Resources Program- Louisiana's federally approved Coastal Zone Management Program under the CZMA. It was officially approved in 1980.

Federal

The Coastal Zone Management Act of 1972 (CZMA)

http://www.nps.gov/history/local-law/FHPL_CstlZoneMngmt.pdf

In order to preserve, protect, develop, and restore this nation's coastal resources, Congress enacted the Coastal Zone Management Act (CZMA) in 1972. Congress felt that the most effective way to ensure these goals were met was to provide the means for individual states to develop coastal zone management programs (CZMPs) to address specific resource concerns and development pressures. States were encouraged to cooperate with federal and local governments and other interested parties to develop policies, criteria, methods, and processes for managing the competing demands for coastal resources and preserving environmental quality. Federal responsibility for the implementation of this act rests with the Department of Commerce. It is administered by the Coastal Programs Division within

the National Oceanographic and Atmospheric Administration's Office of Ocean and Coastal Resource Management.

States that demonstrate an interest in developing a CZMP receive federal funding to do so. When the program is approved, the state receives additional funds to administer and implement the management program. While every state's program must contain certain required program elements, each one is uniquely suited to address the political, economic, social, and environmental conditions and trends in the state's coastal zone.

To encourage states to develop and implement a CZMP, the Act offers a number of incentives. The first is federal monies, in the form of matching grants, to both create and implement the CZMP. Secondly, there is tremendous flexibility allowed in the management measures and administrative procedures that could be incorporated into a state's program. The third is federal consistency. This means that every activity conducted by a federal agency within or outside the designated coastal zone of the state that impacts a land or water use or natural resource in the coastal zone must comply with the policies and guidelines of the state program.

The federal/state/local coordination that has resulted from the implementation of the Coastal Zone Management Act and the individual programs has done much to move this nation toward sustaining our coastal communities, resources, and ecosystems.

The Coastal Wetlands, Planning, Protection, and Restoration Act (CWPPRA), 1990 16 U.S.C. §§ 3951 to 3955 <http://vlex.com/source/us-code-conservation-1015>

CWPPRA directed that a Task Force consisting of representatives of five agencies (Corps, USFWS, USEPA, Department of Interior, and Department of Commerce) and the state of Louisiana develop "a comprehensive approach to restore and prevent the loss of coastal wetlands in Louisiana. CWPPRA establishes general procedures for selection and implementation of Louisiana coastal restoration projects and conservation planning. The Governor's office designated the LADNR to develop a Louisiana Coastal Wetlands Conservation Plan (Conservation Plan) with the goal of achieving no-net-loss of wetlands in the coastal areas of the state as a result of developmental activities initiated after the plan is approved. The Corps, USFWS, and the USEPA approved the plan. The benefits of the plan are two-fold. Ecologically, implementation of the plan will facilitate the protection of the state's wetlands. Financially, successful implementation of the plan will decrease the state's cost share contribution to CWPPRA restoration projects from 25% to 15%. This is a significant reduction considering the costs of many of the projects.

The boundaries of the Conservation Plan are similar to that of the coastal zone. Through a set of tasks outlined in the Conservation Plan, Louisiana proposes to meet the goal of no-net-loss of coastal wetlands. Very briefly these tasks include:

- Ensuring that all permitted activities are properly evaluated and mitigated;
- Off setting losses associated with unpermitted/unreported losses;
- Developing studies to identify secondary and cumulative impacts;
- Funding state-constructed wetland restoration projects;
- Funding a special Wetlands Reserve Program project with the NRCS;
- Tracking habitat gains and losses;
- Assuring adequate personnel and funding;
- Expanding existing outreach efforts; and
- Implementing technology sharing strategies

Louisiana is committed to carrying out this plan and all the tasks listed within throughout the period that CWPPRA funds are available.

The Rivers and Harbors Appropriations Act of 1899- Sections 9 and 10

<http://epw.senate.gov/rivers.pdf>

This Act, commonly referred to as the Rivers and Harbors Act, regulates construction in navigable waters of the United States. Section 9 requires United States Army Corps of Engineers (Corps) approval for the construction of bridges, dams, dikes, or causeways over waters of the U.S. State legislatures may authorize this type of development only if the navigable waters lie completely within the boundaries of one state.

Section 10 makes it unlawful to build any obstruction to the navigability of waters of the U.S. without authorization by the Corps. This construction includes but is not limited to wharfs, piers, weirs, and jetties. Section 10 also prohibits excavation or filling of harbors, lakes, canals, or channels of any navigable waters of the US without the recommendation of the Corps.

The Federal Water Pollution Control Act of 1972 (Clean Water Act)

<http://epw.senate.gov/water.pdf>

The Clean Water Act (CWA) plays a major role in protecting the quality of the waters within and surrounding the US. For the purposes of wetland management, it is important to be familiar with section 404 and 401 of the CWA. Section 404 authorizes the Corps, acting on behalf of the Secretary of the Army, to issue permits for the discharge of dredge or fill material into the navigable waters of the US at specific locations. The discharge of the material at that site must not have adverse effects on water supplies, shellfish or other fisheries areas, or wildlife or recreational areas. Section 404 broadens the Corps's jurisdiction to include additional waters not included in Section 10 of the Rivers and Harbors Act referenced above. These waters include wetlands located inland of the average high tide at a particular location.

Under provisions of the Clean Water Act (CWA), an applicant for a federal license or permit to conduct any activity that may result in a discharge to navigable waters must provide the federal agency with a Section 401 certification. The certification, made by the state in which the discharge originates, declares that the discharge will comply with applicable provisions of the Act, including water quality standards requirements. In Louisiana the state water pollution control agency is the Department of Environmental Quality (DEQ). DEQ requires state water quality certification (CWA 401 certification) for all Corps of Engineers section 404 permits. It is a statement that the proposed work will not violate the Louisiana Water Quality Standards. Ultimately, the goal of the CWA is to minimize negative impacts on all waters of the US including wetlands.

Regulations: http://cfpub.epa.gov/npdes/npdesreg.cfm?program_id=45

Over the years, there has been much discussion regarding the definition of “Waters of the US.” For the purposes of applying section 404 to wetland management, waters of the US include all waters:

1. Subject to the ebb and flow of the tide;
2. wetlands whose degradation could affect commerce, recreation, fisheries, or industry; and
3. wetlands adjacent to other bodies of water of the US.

The National Environmental Policy Act of 196

<http://ceq.hss.doe.gov/nepa/regs/nepa/nepaeqia.htm>

The National Environmental Policy Act (NEPA) is one of the first in a series of federal laws enacted to manage and preserve various aspects of the environment and its ecosystems. NEPA established a broad national policy for the environment by encouraging a productive relationship between man and his environment, promoting efforts to eliminate damage to the biosphere, and enriching the understanding of ecological systems. NEPA also provided for the establishment of a Council on the Environment. One of the duties of this Council is to develop policies to promote environmental conservation goals. In the regulations that implemented NEPA, the council established general mitigation policies. According to 40 C.F.R. (Code of Federal Regulations) §1508.20 mitigation includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

While NEPA does not pertain only to wetlands, all subsequent laws, rules, and regulations regarding wetland mitigation must be consistent with this piece of federal legislation.

Regulations: http://ceq.hss.doe.gov/nepa/regs/ceq/toc_ceq.htm

The Food Security Act of 1985- 'Swampbuster'

http://www.thecre.com/fedlaw/legal14coast/food_security_act_of_1985_legal_matters.htm

(This is the Farm Bill for 1995. A Farm Bill refers to a multi-year federal support law. It usually amends some and suspends many provisions of permanent law, reauthorizes, amends, or repeals provisions of preceding temporary agricultural acts, and puts forth new policy provisions for a limited time into the future.)

The Swampbuster provision of the Food Security Act addresses wetland drainage for agricultural purposes. This part of the Act prohibits producers, who receive farm subsidies or loans, from draining wetlands on owned or operated farm lands. The Natural Resources Conservation Service, a program within the US Department of Agriculture, has the primary authority to enforce the Swampbuster provision on wetlands associated with agricultural lands. The United States Fish and Wildlife Service and the US Environmental Protection Service assist the NRCS with oversight of program implementation.

Amendments to the Food Security Act in 1990 and 1996 have allowed some draining of wetlands if the effects would be minimal or if minor impacts could be mitigated. Some people feel that these changes have weakened the capacity of this bill to protect wetlands. However, together with Section 404 of the CWA, the Swampbuster has been credited with slowing wetland loss and contributing to increased flood control, improved water quality, and enhanced wildlife habitat and benefits.

The Food, Agriculture, Conservation and Trade Act of 1990

(This is the 1995 Farm Bill)

This Act authorized the Wetlands Reserve Program (WRP). The Wetlands Reserve Program is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA Natural Resources Conservation Service (NRCS) provides technical and financial support to help landowners with their wetland restoration efforts. This program offers landowners an opportunity to establish long-term conservation and wildlife practices and protection. The Wetlands Reserve Program provides landowners the opportunity to file for conservation easements or cost-share restoration agreements with the USDA. These landowners voluntarily limit future use of the land, but they retain private ownership.

Farm Security and Rural Investment Act of 2002

(This is the 2002 Farm Bill)

This Act reauthorized the Wetlands Reserve Program and increased the number of acres that could be enrolled in the program.

The North American Wetlands Conservation Act of 1989

This Act is intended to enable the conservation of wetland habitats for the benefit of migratory birds, fish and other wildlife. It also provides funding for the implementation of the North American Waterfowl Management Plan, other migratory bird treaties and agreements between Canada, Mexico, and the US. It also requires that states address wetland protection in their comprehensive outdoor recreation plans and policies.

One of the main purposes of the Act is to encourage the development of partnerships among interested parties to protect, enhance, restore, and manage the diversity of wetland ecosystems and other habitats necessary to the continued survival of migratory birds and other water fowl, fish, and wildlife.

The Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks, 1995

<http://www.epa.gov/owow/wetlands/guidance/mitbankn.html>

On November 28, 1995 guidelines regarding wetland mitigation banks were finalized and published in the Federal Register. Five federal agencies participated in the development the guidelines. These were: the Department of the Army/Corps of Engineers (Corps), the Environmental Protection Agency (EPA), the US Fish and Wildlife Service, the Natural Resource Conservation Service, and the National Marine Fisheries Service (now NOAA Fisheries). The policies outlined in the document do not establish legal rights or agency obligations, but rather they provide a guide to planning, choosing, creating, and managing mitigation banks. The document describes topics such as goal setting, site selection, technical feasibility, MOAs/MOUs, agency roles, crediting and accounting procedures, and long-term managing, monitoring, and remediation of the bank.

The state of Louisiana has incorporated most of these guidelines in its regulations authorizing the use of mitigation banks for compensating for wetland loss associated with development (LAC Title 43 Part 1 Chapter 7 §724).

National Wetlands Mitigation Action Plan, 2002

In response to various published evaluations of mitigation activities which concluded that the no net loss of wetlands goal was not being met, the Corps, the EPA and other federal agencies created The National Wetlands Mitigation Action Plan. It is a comprehensive set of actions that will be implemented to improve the overall success of mitigation activities to replace lost wetland acres, functions, and values. While the Plan does not create new regulations, it does establish a framework for the development of additional research, technical guidance, and policies regarding compensatory wetland mitigation.

The plan includes 17 action items guided by the agencies' desires to increase coordination among participating parties, focus on scientifically informed decision making, clarify performance standards, emphasize accountability and monitoring, and provide timely information and relevant technical

assistance. The first action item requires the Corps and other agencies to re-issue the mitigation Regulatory Guidance Letter (See below). Other action items include:

- Placing wetland mitigation in a watershed context;
- Mitigating impacts to streams;
- Developing a model mitigation plan checklist;
- Researching the use of biological indicators and functional assessments for evaluating mitigation success;
- Defining performance standards for mitigation projects;
- Compiling and distributing information and data on existing mitigation projects, activities, and banks; and
- Make available to the public, a report card on mitigation activities.

US Army Corps of Engineers Regulatory Guidance Letter 02-2, December 24, 2002

<http://www.fhwa.dot.gov/environment/wetland/rgl022.htm>

In 2001 the Corps issued a Regulatory Guidance Letter which provided guidelines pertaining to compensatory mitigation. In December 2002, the Corps coordinated with numerous other federal agencies, including the United States Environmental Protection Agency, to re-write and issue an updated Regulatory Guidance Letter. The policies set forth in this letter improve the Corps' ability to meet the federal policy of "no net loss" of wetland values and improve protection for wetland habitats by encouraging a more watershed based approach to wetland mitigation.

Some of the important policies and guidelines detailed in the letter include:

- The Corps should coordinate with tribal, state, local, and other federal resource managers to consider the entire ecological system and view each project from a watershed perspective.
- Corps districts should use functional ecological assessments to determine compensatory mitigation requirements.
- Permit applicants can propose to use mitigation banks, in-lieu fees, or specific mitigation projects to compensate for wetland habitat losses.
- Compensatory mitigation plans should include specific environmental goals and objectives.
- A detailed mitigation work plan should be written including detailed information on the mitigation site, construction methods, vegetation and planting specifics, erosion control measures, and a long-term management and maintenance plan.
- All mitigation plans must include qualitative and/or quantitative performance standards for assessing whether mitigation is achieving planned goals and objectives.

2008 Compensatory Mitigation Regulations for Losses of Aquatic Resources

Corps of Engineers: 33 CFR Parts 325 and 332

<http://www.usace.army.mil/CECW/Documents/cecwo/reg/materials/33cfr325.pdf>

EPA: 40 CFR Parts 325 and 332

<http://www.epa.gov/owow/wetlands/pdf/MitRuleNPRM.pdf>

Final regulations governing compensatory mitigation for authorized impacts to wetlands, streams, and other waters of the U.S. under §404 and §10. <http://www.epa.gov/wetlandsmitigation/>

The rule replaces provisions of the 1990 MOA that relate to the amount, type, and location of compensatory mitigation, and the use of preservation as a mitigation component. All other provisions of the 1990 MOA remain in effect. <http://www.epa.gov/owow/wetlands/regs/mitigate.html>

The rule replaces the entirety of the 1995 Mitigation Banking Guidance, the 2000 In-Lieu Fee Mitigation Guidance, and the 2002 Compensatory Mitigation Regulatory Guidance Letter (RGL 02-2).

http://www.conservationfund.org/sites/default/files/Ref-1_Overview_of_Federal_Policy_09-1.pdf

Department of Defense and Environmental Protection Agency. April 10, 2008. Compensatory Mitigation for Losses of Aquatic Resources. Final rule. Federal Register. Vol. 73, No. 70: pp. 19594-19705.

http://www.epa.gov/owow/wetlands/pdf/wetlands_mitigation_final_rule_4_10_08.pdf

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Office of Coastal Management (OCM)

Permit Section

The Permit Section is responsible for evaluating all applications for coastal use permits submitted by corporations and private individuals (ranging between approximately 1,500 and 2,000 applications per year) for compliance with the Coastal Use Guidelines. One permit staff member is designated to act as an ombudsman for applicants needing assistance with incomplete applications or subsequent requests for additional information primarily to help individuals not familiar with the permitting process. Additionally, the Joint Public Notice (JPN) Coordinator and their assistant, both contract employees, are housed in this Section. The JPN Coordinator is responsible for receiving and initial processing of all applications received by CMD. A key component of this position is the day-to-day coordination of application information between CMD, the Corps of Engineers and the Louisiana Department of Environmental Quality.

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Mitigation Section

During the CUP review process, CMD permit staff works with the applicant to ensure that impacts to coastal habitats are avoided and/or minimized. However, activities performed in the coastal zone often

cause unavoidable impacts, such as wetland alteration. In such cases, the LCRP's goal of no net loss of wetlands due to permitted activities cannot be accomplished without habitat compensation. The Mitigation Section is responsible for analyzing project impacts and reviewing and approving appropriate compensation. This means that the ecological value of wetlands that are unavoidably lost due to a permitted activity, must be replaced by the creation of an equal amount of ecological value. Compensatory mitigation can be accomplished by wetland creation, enhancement, restoration, protection, or the purchase of credits from an approved mitigation bank or area. The staff in the Mitigation Section also serves as the interagency liaison for all mitigation bank and mitigation area proposals and represents the Department on the Mitigation Bank Interagency Review Team

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Louisiana Coastal Wetlands Conservation Plan Coordinator

The Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) (U.S. Public Law 101-646, Title III, Section 304) contains a provision of great financial benefit to Louisiana. More commonly known as the "Breaux Act," the law allows for a substantial cost share reduction when the state develops and implements, and the Federal government approves, a Louisiana Coastal Wetlands Conservation Plan. The Louisiana Dept. of Natural Resources Coastal Management Division (now OCM) prepared the plan and it went into effect in December, 1997. By maintaining the Conservation Plan in place, Louisiana keeps the federal/state cost share match ratio for Breaux Act coastal restoration project funding at 85/15 instead of the default 75/25 federal/state ratio, saving the State a lot of money.

Since 1998 the Louisiana Coastal Wetlands Conservation Plan has helped make over \$60 million available to the State, an average of over \$6 million per year for coastal restoration projects (see attached table). To maintain this favorable cost share ratio, the State must ensure that it meets its goals and obligations under the Plan. This is monitored by the three federal oversight agencies (USFWS, USEPA, and USACE) that are required to periodically review the plan program implementation and report to Congress.

The Plan continues to be coordinated through the Office of Coastal Management (OCM) and consists of two main components. The central component of the Conservation Plan is an accounting data base that tracks the balance of coastal wetland losses allowed by the permitting process, versus the coastal wetland gains from compensatory mitigation that the State requires. Thus-far, throughout the 10-year life of the program, this balance has always been positive, though not always by a wide margin. The Local Coastal Programs play an important role in this accounting of all wetland habitat losses, even if this occurs through activities that are exempt from LCP regulation, and it is critical that no warranted assessments of compensatory mitigation be overlooked.

Any remaining wetland loss/gain shortfall must be covered by the secondary component of the Conservation Plan, an array of program elements, some of which involve assurances by the State to fund and implement supplementary coastal restoration projects. The State of Louisiana has committed to funding and implementing all of these specific program elements.

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Mapping and Support Services Section

The Support Services Section staff is responsive to both the Permits/Mitigation function of the office and to the Interagency Affairs and Field Services Division. This section provides technical services, which includes design and support for the databases and GIS data for both Divisions; public information/education outreach activities and handling of funds, budgeting and accounting.

CMD has a fully functional GIS that has been described as one of the leaders in the country. CMD has developed GIS applications for use by the permit analysts to produce maps and reports of pertinent data sets and critical information within a designated distance of each permit application using over 30 datasets from various government agencies. This is critical in reducing permit review times by highlighting issues of concern and reducing unneeded research.

The CMD database and GIS systems were designed to capture as much information about permit applications as possible. Support Services staff maintains the system and enter the GIS and tabular data. Tracking impacted acreage and habitat unit loss and gain for the Coastal Wetlands Conservation Plan is one of the functions for which the system was designed. The system tracks acres impacted and habitat units lost for each different habitat type for each permit issued by CMD. It also tracks the habitat units gained through mitigation activities. This allows Louisiana to measure net loss/gain of wetland habitat due to development activities. Additionally, with some 800 permits per year issued with conditions which require follow-up and/or monitoring, the database is essential to maintain records of those permits and track the next scheduled review or inspection. The Louisiana State Legislature requires agencies to prepare quarterly performance reports and the performance indicators for CMD are based on permit and mitigation statistics. Support Services also provides statistics on impacted acres and habitats to the Corps of Engineers for the Programmatic General Permit. These reports are compiled from information in the database.

Most of the databases are available to the public via the internet as is general information about the program and instructions for applying for a Coastal Use Permit. Use of the computer mapping systems and databases with the digital aerial photography and satellite imagery provide powerful tools to aide in the effective management of a dynamic coastal ecosystem.

CMD developed and maintains a database of pipelines in the Coastal Zone and platforms in offshore state waters. This is the only comprehensive data set of pipelines maintained by state government. Other GIS datasets created and maintained by CMD include mitigation projects, mitigation areas, and marsh management areas.

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Public Information and Education Section

CMD's Public Information and Education function is designed to inform and educate the general public, business, and industry about the Division's programs, policies, and functions. A series of brochures, a regular newsletter, and other printed materials are available free to the public. Among the literature available are brochures on the Coastal Use Permit Program and other CMD functions, including

information on how coastal residents can help management programs succeed. Also available are materials developed to assist teachers in their classrooms. These materials contain valuable information as well as activities for the students. Staff members are available to give presentations to classes and other groups, and program managers are available on request to meet with persons wanting more information on CMD efforts.

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Local Coastal Programs Section

The Local Coastal Programs Section provides technical assistance, guidance, and management to parishes in the development, approval, and implementation of local coastal programs (LCP). Parishes with a program approved by state and federal agencies may issue permits for projects of local concern in the parish's Coastal Zone.

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Coastal Nonpoint Pollution Control Program

The Coastal Nonpoint Pollution Control Program (CNPCP) is being developed, in partnership with the Louisiana Department of Environmental Quality (LDEQ) and other governmental and nongovernmental agencies, to educate Louisiana coastal resources users about available best management measures, and to reduce pollutants that may impact the coastal waters of Louisiana.

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Coastal and Estuarine Land Conservation Program

The Coastal and Estuarine Land Conservation Program (CELCP) purpose is “the protection of important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses, and will give priority to lands which can be effectively managed, protected, and that have significant ecological value.”

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Consistency Section

Most of the applications reviewed by Coastal Management Division are for Coastal Use Permits. Federal agency activities, however, and certain types of private projects are excluded from Coastal Use Permits requirements per se. These activities must, nevertheless, be carried out in a manner consistent with the Louisiana Coastal Resources Program. These applications are reviewed by the Consistency Section.

The authority for Consistency reviews derives from the federal Coastal Zone Management Act, which requires federal agencies to be consistent with a state’s approved coastal management program. This includes activities carried out by the federal government agencies themselves, activities by private companies that occur on federally-owned property such as National Wildlife Refuges, and oil and gas activities in federal waters offshore from Louisiana. Consistency Section also reviews applications for

federal financial assistance to state and local governments. In certain cases, LDNR can use Consistency authorities to review activities even if they occur outside of the Coastal Zone, and even in other states.

Although procedures differ from Coastal Use Permits, the standards to which projects must comply are the same. Consistency Section publishes Public Notices announcing the review of individual projects, and provides electronic copies to approved Parish Local Coastal Programs as well as several state and federal resource agencies, seeking input to be considered during review. A minimum of 15 days is allotted for the receipt of comments. Copies of the final decision document are forwarded to these same agencies.

Processing time for Consistency review depends on the type of project. Federal activities must be reviewed within 75 days of receipt, unless the agency agrees to extend the deadline. Reviews of federal permits for private projects on federal lands, for offshore oil and gas activities, and for federal financial assistance may take up to three months and can, if necessary, be extended for another three. Review times generally run much less than these maximums, however.

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OCM Oil Spill, NRDA and the Regional Restoration Plan

The Oil Spill Section is responsible for planning, response, and Natural Resource Damage Assessment (NRDA) activities resulting from oil spill incidents that occur in the Louisiana Coastal Zone.

Under the Oil Pollution Act (33 USC 2706[b]) and the National Contingency Plan (40 CFR 300.600), certain federal and state agencies and tribal authorities are designated natural resource trustees for trust resources and services injured by a discharge or substantial threat of a discharge of oil. To guide these efforts, the cooperating parties follow the NRDA process.

As a Louisiana state natural resource trustee, LDNR is responsible for conservation, management, and development of water, minerals, and other such natural resources of the state, including coastal restoration and management, except timber, fish, and wildlife. LDNR works to manage, protect, and preserve the State's nonrenewable natural resources, consisting of oil, gas, groundwater, wind, and wetlands to fulfill their statutory responsibilities as a natural resource trustee for the State of Louisiana.

The OPA, 33 USC 2701 et seq. and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSpra), La. Rev. Stat. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to natural resources and services resulting from incidents in Louisiana. Pursuant to OPA, a state can develop a regional restoration plan(s) in order to expedite restoration of lost services as a result of an oil spill. As part of the Louisiana program the Louisiana Oil Spill Coordinators Office (LOSCO) is developing a RRP which contain a list of restoration projects.

Collection of restoration project information is undertaken in order to provide information to the Natural Resource Trustee to develop potential restoration alternatives for natural resources injuries and service losses requiring restoration during the restoration planning phase of the Natural Resources

Damage Assessment (NRDA) process. The purpose is to supply potential restoration projects to Louisiana Oil Spill Coordinator's Office (LOSCO) for review. Submitter will need to fill out the form to the best of their ability. Not all projects submitted will be selected and put on the restoration project database. If approved, the project will be placed into the database for possible implementation if needed depending on vicinity of oil spill and likeness of resource that needs to be restored from oil spill. This link http://www.losco.state.la.us/pdf_docs/RRP_project_info_sheet_OMBform.pdf will take a submitter directly to LOSCO's project solicitation form. This form and more information can be found LOSCO's webpage at <http://www.losco.state.la.us/>.

Federal and Louisiana natural resource trustees have developed a statewide Louisiana Regional Restoration Planning Program (RRP Program) to assist the natural resource trustees in carrying out their NRDA responsibilities for discharges or substantial threats of discharges of oil. The goals of this statewide RRP Program are to expedite and reduce the cost of the NRDA process, provide for consistency and predictability by describing in detail the NRDA process, thereby increasing understanding of the process by the public and industry, and increase restoration of lost trust resources and services. Attainment of these goals will serve to make the NRDA process as a whole more efficient in Louisiana. The Louisiana RRP Program Final Programmatic Environmental Impact Statement was published in 2007 in coordination with other Louisiana state and federal natural resource trustee agencies. The trustee agencies continue to develop tools and procedures under the RRP Program framework to expedite the NRDA process in Louisiana. More information can be found on the website at <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=102>

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Field Services, Compliance, and Fisherman's Gear

The Compliance Branch is composed of Field Services, Compliance, and Fisherman's Gear Section. The Compliance and Enforcement Section of the IA/FS&C Division consist of coastal scientist in the four field offices (New Orleans, Houma, Lafayette and Lake Charles) and Baton Rouge headquarters. Along with their primary duties of biological assessment of proposed activities in the coastal zone, they will also monitor permitted activities and accompanying compensatory mitigation as well as unauthorized activities discovered during this time. Coordination with the New Orleans District of the Army Corps of Engineers in processing compliance and enforcement is regularly performed. These duties are also performed in association with local coastal programs if the local coastal programs requests assistance. The Fisherman's Gear program reimburses commercial fishermen for losses resulting from allusions and damage to vessels and equipment with oil and gas industry infrastructure.

State Program: <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=100>

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Wetlands Defined

Wetlands are “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.” (33 C.F.R. § 328.3).

Three wetland criteria must be present for an area to be called a wetland:

- wetland hydrology (the way water enters, is retained and released by a wetland);
- wetland vegetation; and
- wetland soils, also called hydric soils.

The state definition of wetlands at L.A.C. 49: §700 are:

“Wetlands”

1. for the purposes of this Chapter except for §724, open water areas or areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions;

2. for the purposes of §724 (as defined in R.S. 49:214.41), an open water area or an area that is inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, but specifically excluding fastlands and lands more than 5 feet above sea level which occur in the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.”

Wetland Hydrology

Areas where the presence of water causes anaerobic and reducing conditions thus influencing the characteristics of the vegetation and the soil, respectively, are said to have wetland hydrology. (Mitch and Gosselink 2000) Whether an area demonstrates these characteristics of wetland hydrology depends on the frequency, timing, and duration of the inundation, or soil saturation. See the table below adapted from Mitch and Gosselink 2000. Additional characteristics of wetland hydrology can be visually monitored or recorded. These include soil saturation, watermarks on trees, drift lines, sediment deposits, and drainage patterns. (Mitch and Gosselink 2000)

Zone	Name	Duration	Comments
I	Permanently inundated	100%	Inundation >2 meters mean water depth. Aquatic not wetlands
II	Semi-permanently to nearly permanently inundated or saturated	>75% - <100%	Inundation defined as <2 meters water depth
III	Regularly inundated or saturated	>25% - 75%	
IV	Seasonally inundated or saturated	>12.5% - 25%	
V	Irregularly inundated or saturated	≥5% - 12.5%	Many areas having these hydrologic characteristics are not wetlands
VI	Intermittently or never inundated or saturated	<5%	Areas with these hydrologic characteristics are not wetlands

Wetland Vegetation

The prevalent vegetation in wetlands consists of macrophytes that are typically adapted to inundated or saturated conditions. Hydrophytic species, due to morphological, physiological, and/or reproductive adaptations), have the ability to grow, effectively compete, reproduce, and/or persist in anaerobic soil conditions. Wetland plants are grouped into categories based on the estimated probability that they will occur in a wetland area. Obligate plant species are those that occur almost always in wetlands under normal conditions and rarely in non-wetlands. Facultative wetland plant species will usually occur in wetlands but may also occur in non-wetlands.

Wetland Soils

According to Mitch and Gosselink, a hydric soil is a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions that support the growth of hydrophytic vegetation.

Coastal Louisiana Wetland Types

Coastal wetlands in Louisiana include tidal salt/brackish marshes, tidal freshwater marshes, cypress swamps, and bottomland hardwoods. Each provides habitat for ecologically and economically important plant and animal species.

Salt/Brackish Marsh

Salt/Brackish marshes border saline water bodies and are subject to regular or occasional flooding by tides. They thrive when the accumulation of sediments is equal to or greater than the rate of land subsidence and where there is sufficient protection from intense waves and storms. Salt marshes rate among the most productive ecosystems in the world rivaling even tropical rainforests in their primary productivity. They are a complex system involving plants, animals, microorganisms, nutrients, and energy exchange.

Coastal Louisiana experiences river-dominated marsh development. Sediment loads carried by the Mississippi River built these marshes. The first plants to dominate the area were freshwater species. However, as the river shifted its course through geologic time, these marshes were no longer supplied with fresh river water. They become more and more influenced by the saline waters of the Gulf of Mexico. The cycle of development from freshwater marsh to salt marsh to open water under the constant influence of subsidence is natural. However, it has been greatly speeded up by numerous human induced forces and actions. The long term stability and success of salt marshes depends on the relative rates of sediment accretion and coastal land subsidence. When sediment loads from a river diminish and/or when land subsidence is accelerated the salt marsh will begin to disappear and will be replaced with open water.

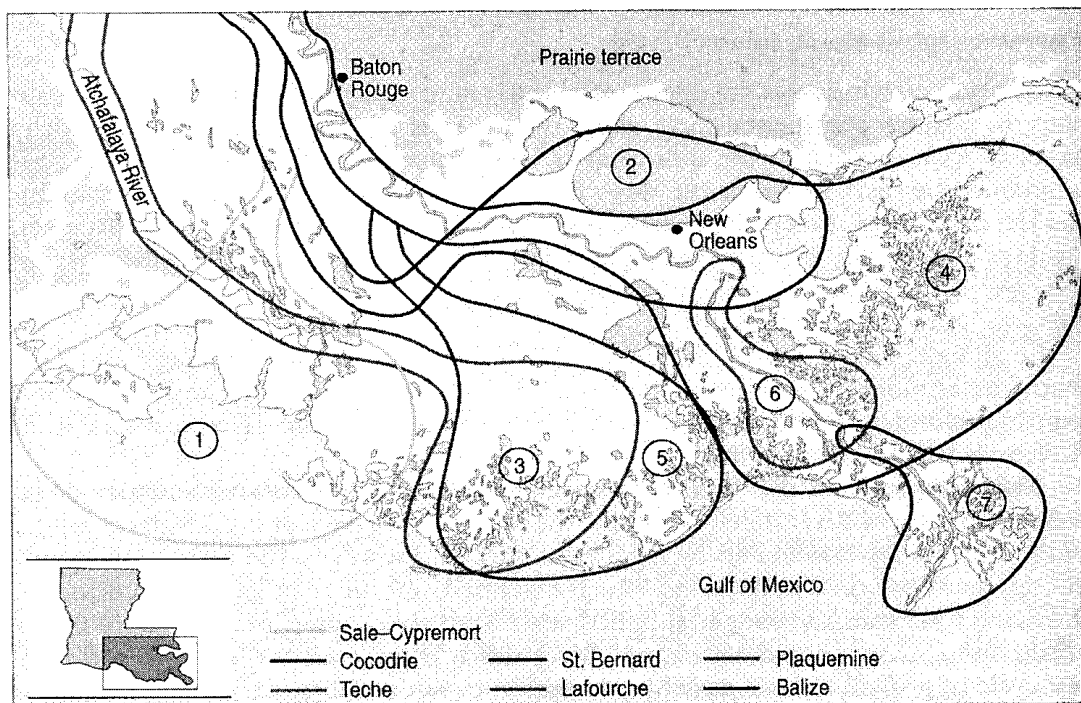


Figure 1: Lobes that constructed the present Mississippi River delta, numbered in chronological order of formation.

The vegetation that occurs in coastal marshes typically grows in zones depending on the plants' adaptation to the physical environment. Coastal wetland plant species occurring in south Louisiana's

salt marshes include: smooth cordgrass; black needlerush; glasswort; salt grass; sea lavender; salt marsh bullrush; saw grass.

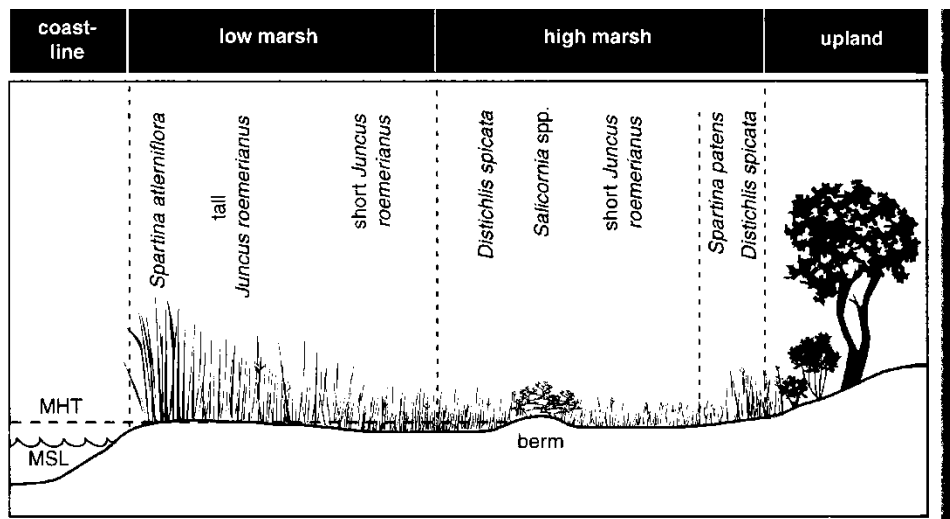


Figure 2: This is a diagram showing typical zonation of vegetation in the eastern Gulf of Mexico.

Numerous animal species take advantage of the habitat provided by coastal salt marshes. Louisiana's salt marshes support very large populations of wading birds, migratory waterfowl, and songbirds. Larval and juvenile stages of many fish and other vertebrates live in the shallow waters and many mammals utilize the abundant food supplies and shelter offered by the marsh.

Tidal Freshwater Marshes

Freshwater marshes are in close enough proximity to the coast to experience significant tidal fluctuations but they are beyond the reach and influence of oceanic salt water. Plant and animal diversity are high as there is no salt stress to limit survival. Freshwater marshes in southern Louisiana (the northern coast of the Gulf of Mexico) include ecologically mature floating marshes and relatively new marshes developing on emerging land where major rivers are continuously building new deltas.

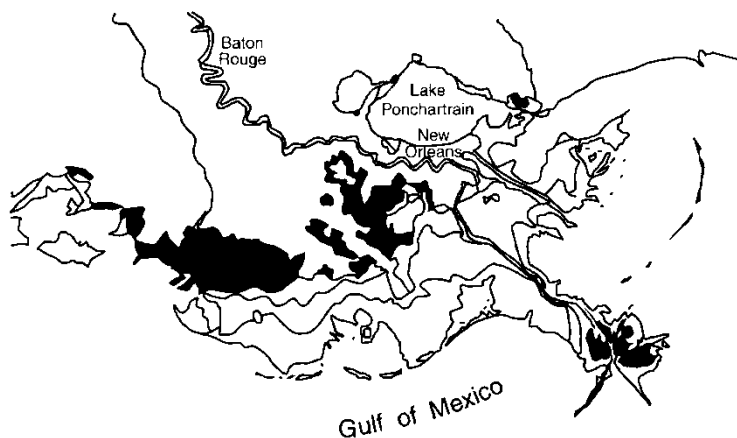


Figure 3: Tidal freshwater marshes in Louisiana, on the northern coast of the Gulf of Mexico.

Development of a freshwater marsh requires adequate rainfall, river flow, a flat gradient from the ocean inland, and a significant tidal range. These conditions tend to occur where major rivers meet and spill into coastal waters. Most mature freshwater marshes in southern Louisiana do not show obvious increase in marsh elevation from low to high marsh and vegetation patterns do not occur in distinct zones. The exceptions to this are the emerging islands of the Mississippi and Achafalaya River deltas. Since these are located closer to the coast, they have a more regular pattern of tidal inundation, exhibit gradients in physical and chemical properties and display more typical plant zonations. (See Figure 4, next page)

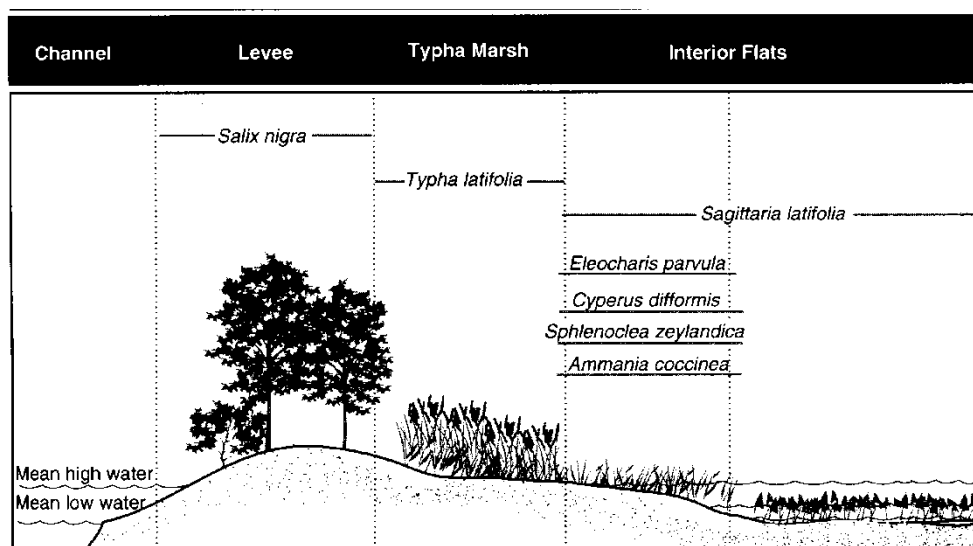


Figure 4: Cross section of a typical freshwater tidal marsh in the Atchafalaya Delta, showing elevation changes and typical vegetation.

Hundreds of species of animals take advantage of coastal freshwater wetland habitats. Fish use the area as feeding and wintering grounds. Waterfowl, wading birds, rails, shorebirds and many others depend heavily on the structural diversity of freshwater vegetation, and amphibians, reptiles, and mammals are all closely associated with freshwater marshes.

Cypress/ Tupelo Swamps

Cypress/Tupelo dominated wetlands are an example of a freshwater deep swamp where woody vegetation dominates and water is present throughout most or all of the growing season. These swamps, though once common throughout the southeastern United States, have been extensively logged due to the trees' strength and rot resistant characteristics. Some researchers have estimated that close to 90% of the cypress swamps found in pre-settlement times have been destroyed. Of those that remain, Louisiana, Florida, and Georgia have most of the remaining timber volume.

The cypress/tupelo swamps common in Louisiana are usually confined to permanently flooded depressions on floodplains such as abandoned river channels or swamps which parallel current rivers.

The hydrology of these areas is dominated by runoff from the surrounding uplands and overflow from flooding rivers. The plant communities in these deepwater swamps are adapted to the almost continuously wet environment in which they exist. Cypress and tupelo trees produce pneumatophores—organs that extend from the root system to well-above the average waterlevel (often called knees). Scientific speculation about the functions of these knees ranges from anchoring the tree to gas exchange. Buttresses, or swollen trunk bases, also occur on trees which grow in flooded conditions. Again, the ecological adaptive reason for these buttresses is not well understood. Bald Cypress and water tupelo trees often grow in association and in the same swamp, although pure stands of either are also common.

Bottomland Hardwoods

Bottomland hardwoods are defined as riparian (adjacent to streams and rivers) forested lowlands, usually on alluvial floodplains, that are periodically flooded by surface water or ground water during the growing season. They cover large areas in the southeastern United States. However they have and continue to be converted to other uses including agricultural lands and areas used for human settlement.

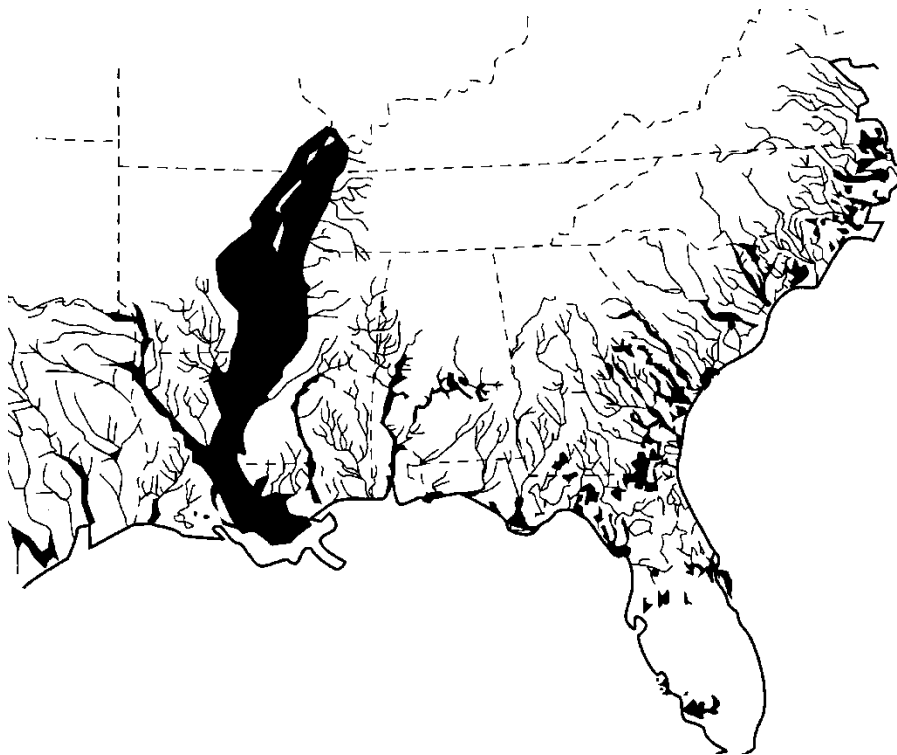


Figure 5: Extent of bottomland hardwood forests of the southeastern United States.

Similarly to the other wetland environments, the vegetation in bottomland hardwoods grows in zones according to the moisture gradient which varies across the floodplain. Those trees adapted to wetter conditions will thrive in the lowest regions while species less adapted to saturated conditions will grow in the higher elevations. The lowest parts of the bottomland are almost constantly flooded and form

the cypress tupelo swamps described in the previous section. Above these in elevation, black willow (*Salix nigra*), cottonwoods (*Populus deltoids*), green ash (*Fraxinus pennsylvanica*), and red maple (*Acer rubrum*) may be found. In higher elevations of the bottomland hardwood forest oaks, ash, elms, maples, and sweetgum (*Liquidambar styraciflua*) can all be found. In the highest elevations, those temporarily or infrequently flooded, oaks and even pines are often present. (See Figure 6) The interface between these zones is not discrete. Changes in dominant vegetation occur along a gradient as some species will overlap in a slowly changing continuum.

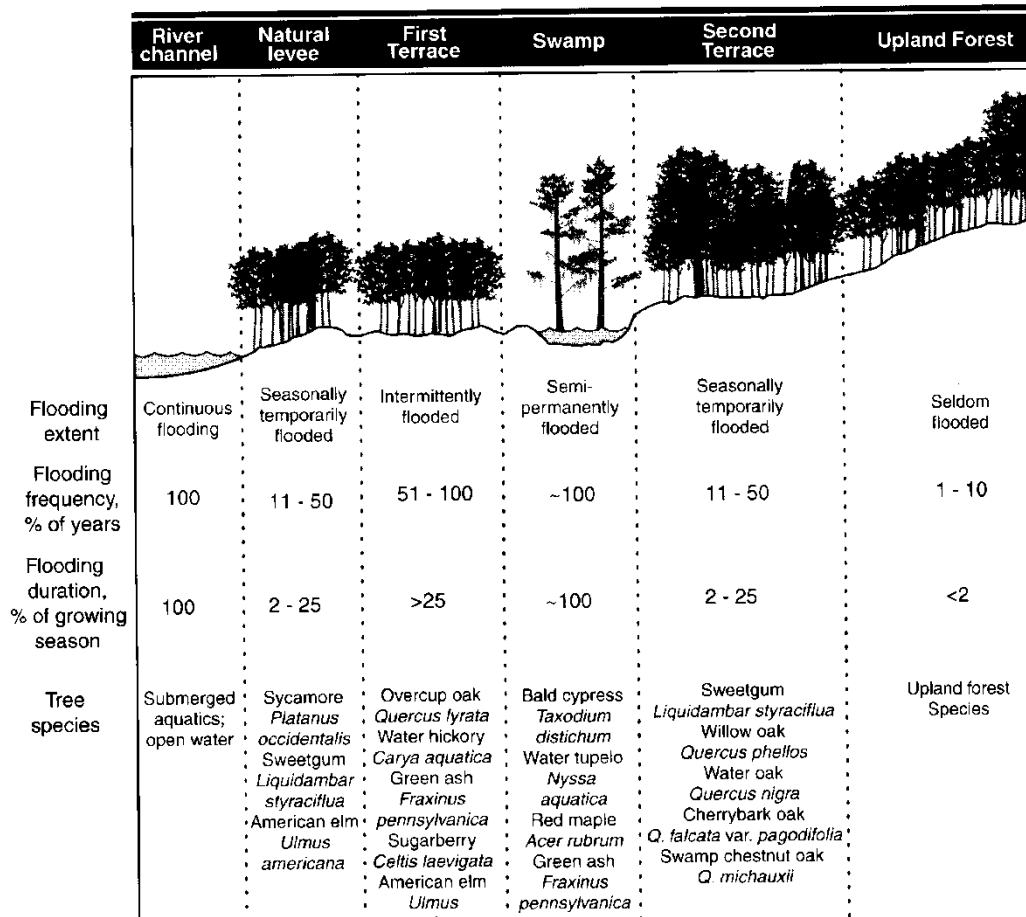


Figure 6: General relationship between vegetation association and floodplain topography, flood frequency, and flood duration of a southeastern U.S. bottom land hardwood forest.

Wetlands Functions and Values?

Wetlands serve as buffers against storm impacts!

Some research has indicated that every mile of vegetated wetlands along the coastline reduces storm surge height by one foot. When wetlands are lost, coastal communities lose the storm surge protection function that wetlands provide. Damages to homes and communities is much more devastating in areas

where wetlands no longer exist to absorb the intense amounts of wave energy that often accompany large storms such as hurricanes.

Wetlands provide flood control!

For centuries the Mississippi River flooded its banks supplying fertile soils to its floodplains but also wreaking havoc on surrounding communities. Before the levees were built, the wetlands along the banks of the river helped to slow and detain the floodwaters lessening the destructive impacts and reducing flood peaks.

Wetlands help prevent erosion!

A decrease in wetland vegetation leads to increases in shoreline erosion and associated coastal problems. In fact, the problem becomes a cycle of ecological devastation as decreases in wetland vegetation contribute to the loss of the valuable sediments needed to hold vegetation in place.

Wetlands protect and enhance water quality!

As mentioned above, wetlands have historically served as ecological traps for sediments preventing them from reaching lakes, bays, streams and other bodies of water. The clearing of wetland acres increases sediment runoff. Excess amounts of sediments in these water bodies can adversely impact fish and other wildlife that require clear water for survival. Wetlands also act as filters for other types of pollutants including nutrients, chemicals, and metals. Wetland plants remove nitrogen and phosphorous (chemicals often associated with fertilizers) from agricultural runoff and urban wastewaters. Various chemical reactions occur in wetland soils and plants that remove pesticides and metals from water running off wetland areas. Finally, the accumulation of water in wetlands can help maintain adequate streamflow in nearby streams during periods of drought.

Wetlands provide habitat for a diverse array of living creatures!

Wetlands are home to hundreds of game and non-game species of mammals, fish, reptiles, birds, and amphibians. Many of these animals require tens or even hundreds of acres of pristine wetlands to breed, hunt, and feed. Some are listed as threatened or endangered and may become extinct if their habitat is further impacted or impaired. Their survival is linked to preserving and maintaining the productivity of wetlands.

Wetlands are fun and exciting places to visit!

Louisiana wetlands provide wonderful recreational opportunities for residents and visitors alike. Hunting, fishing, boating, bird watching, crabbing, and camping are only some of the activities which visitors to wetlands can enjoy. These activities bring large amounts of revenue into the state from hunting and fishing licenses, gear, food, gas, lodging costs, and other sources of income from travel and tourism. Many people living in Coastal Louisiana depend on wetlands for their livelihood, and the unique culture that has developed in the area draws visitors throughout the year.

Wetland Delineation

The U.S. National Wetlands Inventory (NWI) initiated a major mapping project using black and white aerial photography. Although these maps provide important information, in order to determine jurisdictional wetlands for regulatory purposes (must be within a tolerance of less than one meter), an on-site visit is usually required. The Army Corps of Engineers developed several manuals on wetland delineation. They currently officially use the 1987 Wetlands Delineation Manual in order to determine the locations and boundaries of wetlands for permit requirements.

<http://www.wetlands.com/regs/tlpge02e.htm>

Sample Literature on Wetland Plants

There is abundant literature available describing the coastal wetland plants of southeastern United States. OCM provided each of the 19 Louisiana coastal parishes with the following reference books for use in identifying and keying wetland vegetation.

Field Guide to Coastal Wetland Plants of the Southeastern United States by Ralph W. Tiner; The University of Massachusetts Press, 1993.

Common Vascular Plants of the Louisiana Marsh by R.H. Chabreck and R.E. Condry; Sea Grant Publication No. LSU-T-79-003, Louisiana State University Center for Wetland Resources, 1979.

Leaf Key to Common Trees in Louisiana by Robert H. Mills; LSU Agricultural Center, Louisiana Cooperative Extension Service, 1998.

A Guide to Selected Florida Wetland Plants and Communities by U.S. Army Corps of Engineers, Jacksonville District, 1988.

Louisiana Trees LSU Agricultural Center, Louisiana Cooperative Extension Service, 1997.

Submerged and Floating Aquatic Plants of South Louisiana, a booklet by Marty Floyd, U.S. Dept. of agriculture, Soil Conservation Service, 1988.

Wetland Plants of the New Orleans District, a book of color photos distributed by LADNR/OCM.

* There are also many internet sites devoted to wetland plants. Just use your favorite search engine and enter in the name of the plant. Often a site with a picture and/or description will be available.

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Basic Permit Information

A Coastal Use Permit (CUP) Program has been established by the Act to help ensure the management and reasonable use of the state's coastal resources. The Coastal Use Permit is the basic regulatory tool of the office and is required for certain projects in the Coastal Zone, including but not limited to dredge and fill work, bulkhead construction, shoreline modification, and other development projects such as marinas, subdivisions, drainage facilities and energy infrastructure. The CUP Program requires persons planning public, private, or commercial projects within the coastal zone to apply for authorization prior to construction of any project that is not exempt from regulation. A prime concern of the CUP Program is to regulate activities that may increase the loss of wetlands and aquatic resources, as well as to reduce conflicts between coastal resource user groups. The rules and regulations governing Coastal Use Permits is found in the Louisiana Administrative code under [Title 43, Part 1, Chapter 7 §723](#) (webpage).

The LADNR (and the parishes with approved Local Programs) has regulatory jurisdiction over activities which occur in the coastal zone or that affect coastal waters and which occur outside of fastlands (Fastlands—lands surrounded by publicly-owned, maintained, or otherwise validly existing levees or natural formations as of January 1, 1979, or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.) and below the 5 foot contour or that have significant and direct impacts to coastal waters. Anyone wanting to develop, dredge, fill or otherwise engage in a development type activity occurring within these jurisdictional boundaries should apply for a CUP. The legislative authority for this is the SLCRMA and associated regulations. Some of the authorizations issued by OCM are for activities that do not impact coastal resources, No Direct and Significant Impact (NDSI) or are exempt via the SLCRMA (EXEMPT) or are Outside the Coastal Zone (OCZ). None of these authorizations require a compensatory mitigation evaluation.

The COE has jurisdiction over Waters of the United States and can issue permits for activities occurring both within and outside of the coastal zone. Sometimes COE jurisdiction and LDNR jurisdiction overlap, for example: when an activity affecting vegetative wetlands is to occur within the coastal zone, below the 5 foot contour, and outside of a fastland. In this case the applicant will need both a COE permit and a CUP. Under other circumstances only the COE will have jurisdiction and the applicant will be exempt from needing a CUP but WILL have to obtain a COE permit. There could also be situations where a CUP is required but not a COE permit.

What is a PGP?

Basically the Programmatic General Permit (PGP) is a mechanism that allows the state (OCM) to be the primary regulator of activities having relatively minor impacts to special aquatic sites, including vegetated wetlands. (PGP's are issued by the Corps)

Each of the agencies involved in permitting had an incentive to accept the adoption of PGPs. Federal resource agencies have fewer applications to review, the Corps reduced the personnel time involved in their review of the projects that qualify for PGPs, and OCM acquired the ability to determine mitigation

requirements without constant and prolonged consultation with the Corps. The incorporation of PGPs into the permitting process has improved efficiency and benefited the applicant by expediting the issuance of permit authorizations.

There are 2 PGP categories. A PGP 1 may be issued to activities impacting 0.5 wetland acres or less. A PGP 2 generally may be given to activities impacting 2 acres tidal and 3 acres non-tidal.

When the Corps issues a PGP for a local concern permit, it is essentially turning over to you (the LCP administrator) the responsibility for permitting the activity and requiring mitigation if appropriate. Therefore, it is essential that you notify the Corps analyst ASAP (within 5 days of when you receive a local concern application) as to whether the application will be EXEMPT or not. It is not necessary that you wait to find out whether the application will be a PGP. If an activity is exempt from a CUP the COE cannot issue a PGP because no one is responsible for assuring that mitigation is assessed for potential impacts from the activity. When you determine an application is EXEMPT from your jurisdiction, the Corps then must process the application under a different type of permit.

General Permits

OCM General Permits (GPs) are issued to authorize some of the most routine types of projects which occur in the coastal zone and whose construction requires a permit. GPs are available only for certain and specific categories of activities which are similar in type and nature and which are anticipated to cause minimal adverse impacts when implemented separately or in conjunction with other activities. The majority of OCM GPs authorize the construction of new infrastructure, though some specifically authorize maintenance type activities.

The processing of the GP application and the outcome of the permitted activity are mostly standardized. However, the applicant must conduct the activity in conformance with the standard implementation procedures, the best management practices, and the general and operational conditions on the GP. If the applicant agrees to adjust his project to conform to the GP requirements and conditions (often this entails minimizing impacts up front), the permit and authorization process can be expedited. These applications can be expedited because they have been previously approved (placed on a 30 day public notice) as written.

Which OCM GPs are relevant to the LCP?

The State's Coastal management regulations specifically authorize the LCPs to adopt GPs for uses of local concern under their jurisdiction. This will most likely require approval from the parish council, policy jury, president, etc. Please contact OCM/IA for more information about how your parish can amend your Coastal Management Ordinance to adopt and begin using GPs. Many of the GPs authorize oil and gas (state concern) related activities and would be of no use to the local programs. The table below lists and briefly describes the GPs that your parish might consider adopting.

GP #	Purpose	Notification Period
GP -8	Construction of wave dampening sediment fences	N/A

GP-11	Implementation of mitigation projects for permitted activities	10 days
GP-13	Maintenance dredging for the management of surface water flow	N/A
GP-15	Maintenance dredging of commercial and private channels and slips	N/A
GP-17	Small dredge projects	N/A
GP-18	Home site preparation	N/A

Detailed information on Coastal Use Permits can be found:

<http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=93> (webpage)

[Example State Permitting Letter Language](#)  (2.5MB)

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General Mitigation Information

Development activities including oil and gas related infrastructure, homes, camps, and other dwellings, roads, piers, marinas and many others are almost inevitable in the coastal zone especially in Louisiana. Such development brings billions of dollars into the state and provides business and recreation opportunities for the public. However, this development can and does adversely affect the habitat and associated ecological communities that exist in the coastal zone.

Over 50% of the original wetlands in the United States have been lost since the 1780's; much of this loss has occurred in Louisiana. Realizing the economic and ecological importance of wetlands and the catastrophic implications of this statistic, federal and state agencies declared a policy of no net loss of wetlands. In order to implement this policy, federal and state agencies have defined, created, and instituted wetland mitigation guidelines and regulations.

LAC Title 43 Part 1 Chapter 7 defines Mitigation as the actions taken by a permittee to avoid, minimize, restore, and compensate for ecological values lost due to a permitted activity. In other words, mitigation begins when a permit applicant modifies his development activity to avoid or minimize impacts to wetland ecological values. Impacts that must be mitigated often include dredging, filling or otherwise disturbing a wetland area. If wetland impacts are still anticipated to occur after all realistic alternatives have been evaluated and taken to avoid them, the permitting agency will require compensatory mitigation. Compensatory Mitigation is defined as the replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of ecological values caused by a permitted activity. Before compensatory mitigation is considered however the applicant should have performed a needs, alternatives and justification analysis. A needs, alternatives and justification analysis is part of the sequencing process. Alternatives to the project looks at why the resource damage could be avoided or minimized while need and justification examines if the public interest accrued by the project outweigh the negative resource consequences.

Sequencing is a very important component of the mitigation process. Proposed impacts to wetlands must undergo this assessment to determine if all alternatives have been considered to avoid and minimize impacts to wetlands. The applicant must illustrate that the activity impacting the wetland has complied with all the following sequencing principles in descending order:

- Avoid direct or indirect impact to the wetland
- Minimize the impact to the wetland by limiting the degree of the activity within the wetland
- Rectify the wetland impact by repairing or restoring the affected wetland, and
- Replace unavoidable impact to the wetland by restoring wetland habitat units lost.

Compensatory mitigation can take many different forms. Wetland habitat can be:

1. Created – establishment of a wetland where one did not formerly exist

2. Restored – re-establishment of a wetland and its functions at a site where they have ceased to exist or exist in a degraded state
3. Enhanced – implementation of an activity at an existing wetland which will increase one or more functions or values.

Mitigation combines agency regulations, ecological restoration, and coordinated management. Slowing and eventually stopping the loss of wetlands requires planning, monitoring, and enforcing compensatory mitigation projects and policies. Mitigation allows for development and economic growth while considering and balancing the ecological importance of wetland habitats and values.

Mitigation Options for Local Concern Applicants

Any acceptable compensatory mitigation must sufficiently and completely offset the unavoidable net loss of wetland ecological value expressed as Average Annual Habitat Units (AAHUs). Average annual habitat units are defined as: “the total number of Habitat Units gained or lost as a result of a proposed action, divided by the life of the action. The mitigation project must also be properly located. According to state regulations the criteria for determining whether the project is properly located are as follows:

- The mitigation project must benefit the wetland ecology in the coastal zone.
- If possible, the mitigation should be located at the same location where the permitted activity is taking place (on-site).
- If it cannot be located at the same location, it should then be located on property belonging to the landowner whose property is being impacted by the permitted activity.
- If that is not possible, it must then be located in the same hydrologic basin as the impacted site.
- The mitigation activity should create the same type of wetland habitat as that being impacted or lost as a result of the proposed activity (in-kind).
- If it is not possible to create the same type of habitat, the mitigation should produce ecological values similar to those lost as a result of the development activity. It should also enhance the overall wetland ecological values in the basin.

There exists a number of different compensatory mitigation options such as herbaceous or tree plantings, shoreline stabilization, or purchases or credits from mitigation banks or areas to name a few. The state regulations require that these options be considered and implemented according to specific priorities. The logic behind both the criteria for selecting the proper location and the type of compensatory mitigation is that the created, restored, enhanced, or preserved wetland should be as similar to the impacted or lost wetland as possible in terms of location, habitat values, other ecologic values, as well as physical, chemical, and economic values and functions provided by the original wetland. Remember, the applicant may have a number of compensatory mitigation options available to him. While compensatory mitigation is required, there may be more than one way to compensate for anticipated loss. The applicant should be made aware of his options, if more than one exists.

The state regulations have outlined sequencing for choosing appropriate mitigation options:

- If the permit applicant or the landowner on whose property the permitted activity will be taking place has a mitigation bank or area, approved by the oversee agencies, purchase of mitigation credits is given first priority.
- The next available option allows for the permit applicant to purchase credit from a mitigation bank or area, located off-site or not on the affected landowner's property (within the same basin as the proposed impacts).
- Implementing a mitigation project on-site or on the landowner's property is the next option that should be considered.
- Next, the applicant may implement a mitigation project off-site (within the same basin as the proposed impacts).
- The final option, reserved only for those circumstances when no other option is available, is a monetary contribution to the state or parish mitigation trust fund. This is typically allowed only if the applicant or the LCP administrator can document that no other options are feasible. A monetary contribution cannot be made if the wetland area impacted by the activity exceeds 10 acres by statute; however monetary contributions as a general rule should only be considered for activities of less than 1 acre.

The landowner on whose property the proposed activity is to take place has the "first right of refusal." This means that he has the right to 'require' that the compensatory mitigation occur on his property. If the landowner forfeits this right, the parish has the second right of refusal. In order for the mitigation activity to take place within the parish or on parish property, the parish should have a permitted project available. More information on this follows in "Another Mitigation Option: The Individual Project."

All applications for activities in the Coastal Zone are forwarded to the Corps. Should the activity require a Corps' Rivers and Harbors Act Section 10 and/or a Clean Water Act Section 404 permit, the Corps may require mitigation for adverse impacts to wetlands. When this is the case, the parish and COE must agree on a mitigation plan, recommended by the applicant, which is acceptable to both agencies. The parish is bound, as an agent of OCM, to require that mitigation for impacts be located within the coastal zone and as close as possible to the location of impacts. These mitigation steps must be followed to avoid the possibility of "double mitigation".

When in the permit process does mitigation have to be assessed? As soon as you determine that a project for which you have received a permit application will impact vegetated wetlands you should work with the applicant to conduct a needs, alternatives, and justification assessment. When you have determined that all possible alternatives have been evaluated to avoid or minimize impacts to wetland ecological values you should arrange for a field investigation. The OCM field investigator for your parish may be available to assist with the investigation. It is ultimately the parish's responsibility to measure or collect all the necessary values that you will need to calculate the habitat unit impacts utilizing the Wetland Value Assessment (WVA) habitat evaluation tool. Detailed WVA instructions are included in this workbook.

Once the WVA has been calculated for impacts from the proposed project you may send a letter to the permit applicant notifying him that in order to process his application he must submit a mitigation

proposal. You may advise him of his options and work with him to develop a feasible and acceptable compensatory mitigation proposal. Next, you will have to do a WVA calculation for the proposed mitigation. This WVA will allow you to determine if the proposed project replaces all the habitat values (AAHUs) impacted by the proposed project.

OCM collects a mitigation processing fee. The Parish may do so as well. The mitigation processing fees should be used for monitoring, inspecting, and reporting on mitigation areas and projects sponsored by the parish. The can also be used for costs associated with enforcement or site visits. These monies can and should go into a parish LCP trust fund. Many Parish ordinances allow for the creation of such a fund.

You should also send a letter to the landowner, if not the applicant, to notify him/her of the mitigation requirement for unavoidable loss on his/her property. Samples of both letters are included in the sample letter section.

You should receive documentation that the mitigation requirement has been fulfilled (i.e. a check to the landowner, parish, or OCM trust fund, a letter from a mitigation bank documenting receipt of a check, or a permit for the mitigation project if one is necessary) before issuing the permit. The parish should assume the responsibility of developing a monitoring system for mitigation projects for impacts due to Local Coastal Use Permits. Different mitigation options are mitigation banks , in-lieu fee funds and individual projects

Mitigation Banks and Areas

A mitigation bank is a specific plot of land where the sponsor (an individual, corporation, parish, or other organization) has created, restored, enhanced, or protected wetland habitats and values. The sponsor receives credits for the ecological values created by his activities. He then sells these credits to a buyer who needs to mitigate for wetland values lost at a location outside or inside the bank area. A bank must meet specific pre-determined ecological and financial criteria before credits can be sold.

The rules regulating sponsoring, creating, and maintaining mitigation banks are lengthy and very complex. Therefore, some landowners and parishes have decided to create mitigation areas. Unlike a mitigation bank, the mitigation activity at an area can be initiated as the need arises to compensate for wetland impacts permitted by one or several CUPs. Therefore, before an area is approved, all parties to the mitigation area agreement must be confident that the mitigation activity will successfully create wetland ecological values. The CUP applicant pays to purchase credits, and the area sponsor is responsible for getting approval for the area and mitigation plans, and for implementing the mitigation project in the designated area.

Both mitigation banks and areas can benefit the coastal zone by creating large areas of wetlands with high quality wildlife and fish habitat values under long-term management instead of small pockets of isolated wetlands which are difficult to maintain and are often unsuccessful. Wetland mitigation banks

and areas benefit the applicant by simplifying the permitting process and removing the burden of management and maintenance of a mitigation project from the applicant.

Proponents of mitigation banks assert that mitigation banks:

- Can create and preserve important habitats and habitat linkages;
- Help minimize piecemeal mitigation projects which limit physical ecological connectedness and are often more prone to failure;
- Take advantage of economies of scale;
- Often compensate for multiple wetland losses;
- Encourage cooperation with private landowners to protect and restore wetlands on their property;
- Increase flexibility in meeting permit requirements;
- Can improve the reliability of efforts to restore and create wetland habitat with proper review and monitoring;
- Often require private/public partnerships which encourages innovative uses of limited resources; and
- Simplify/streamline the permitting process and the regulatory compliance program while achieving conservation goals.

Opponents of mitigation banks and other projects argue that the productivity of a natural system can never be returned to what it was originally. Once the benefits of a natural system are lost and the biological, chemical, and physical links are broken, they cannot be completely replaced or replicated by mitigation actions. Also, if the mitigation bank fails then the mitigation for a large number of projects fail as well. However, with the available science and under the current federal and state regulations mitigation banks, areas, and projects are the best tools we have to compensating for unavoidable impacts to wetland systems due to permitted development related activities.

You may contact the bank/area sponsor directly or provide the contact information to an applicant to determine whether contracting with that bank for the compensatory mitigation would be appropriate. While it is much preferred that mitigation replace the same kind of habitat in the same basin, exceptions are allowed. Remember that you can mitigate brackish marsh for saline and vice versa and fresh for intermediate and vice versa. While some banks/areas will sell credits for damages occurring only in the same basin as that bank/area, others will be more flexible.

A parish can sponsor a mitigation area. The parish LCP administrator should conduct some basic research to determine what kind of marsh habitat is most often impacted by permitted activity. They could then sponsor a mitigation area that will create that type of marsh. They should also attempt to sponsor an area that will create more than one kind of marsh habitat. Under most circumstances the mitigation area sponsor will need to obtain a permit for the activities it intends to perform to create the area. When applying for a permit, the parish should make it clear from the beginning that it intends the area to be used as a mitigation area. This way the other agencies that review permit applications will evaluate the area and the project for its potential to successfully create AAHUs. A Memorandum of

Agreement between all parties with mitigation responsibilities must be signed which outlines the responsibilities of the area sponsor, describes the mitigation features of the project, and defines the success criteria and monitoring requirements. A map of active banks with credits for sale is available on the [Strategic On-Line Natural Resources Inventory System \(SONRIS\)](#) (webpage) Interacted Maps > Coastal > Mitigation Areas.

Mitigation Funds

A monetary contribution to the Louisiana Wetlands Conservation and Restoration Fund is still a viable mitigation option. However, it should be your last resort after attempting to use a mitigation bank, area, or individual project.

All monies donated to the trust fund will be used by the State in the future to create wetland AAHUs. They may not necessarily be used to create habitat benefits in your parish. Also, your parish cannot retrieve these funds at a later date to implement a mitigation project.

Some LCP approved program documents include a provision for establishing a parish trust fund at a local bank. Monetary contributions (referred to as an in-lieu fee) equal to the cost of creating an equivalent number of AAHUs as impacted by a permitted activity can be made to this fund. However, this fund must be approved by OCM. The funds placed in a parish fund must be dedicated to a specific pre-approved mitigation project.

The main problem with using a parish trust fund and the in-lieu fee process is that the LCP documents have established that the fees will be calculated pursuant to L.A.C. Title 43, Part 1, Chapter 7, §724, subsection I. This subsection defines the formula used to determine the required monetary contribution. However, the dollar amount arrived at will not cover the cost of actually creating and implementing a project to replace the necessary AAHUs, as well as monitoring and managing the mitigation project for the required duration of the project, 20 years for marsh and 50 years for bottomland hardwoods. Should the parish collect money to use to implement a permitted mitigation project; the parish will end up subsidizing the project (in other words paying for the mitigation). Therefore it is recommended that the Parish collect a contribution in the amount of the actual cost to create the habitat.

In addition, some of the LCP documents stipulate that the money must be used within 180 days. Most parishes do not have a sufficient number of permits that require mitigation to collect enough money to execute a mitigation project within 180 days.

Finally, because of these reasons, the other agencies that participate and comment on mitigation frown upon in-lieu fee mitigation. Experience has shown that it does not seem to work in Louisiana and it thwarts attainment of the no-net-loss of wetlands goal. It will be difficult for parishes to get approval from these agencies for an in-lieu fee mitigation system.

Interest that accrues in the trust fund can be put towards mitigation project monitoring and management and towards enforcements costs, etc.

The Individual Project

Another mitigation option is the individual project. Either an individual or a parish can design and apply for a permit (if necessary) to implement a project that will create wetland AAHUs. This project can then be used to mitigate for those habitat units lost or impacted at a project site. If it creates more AAHUs than lost at the project site, then the number of years that the project must be maintained can be reduced. The most important thing to remember is that the permit holder is responsible for the success, the monitoring, and the management of the mitigation project for the agreed upon length of time. The permit can be transferred from the parish to the applicant who will then assume responsibility for the mitigation.

OCM recommends that the parish identify a number of projects it would like to see implemented within parish borders. When a permitted project in the parish requires mitigation, the parish can offer one of the projects to the applicant as a mitigation option. The parish can obtain the permit beforehand and transfer it to the applicant, or the parish can suggest that the applicant obtain the permit and use the project for mitigation. In this way, mitigation remains in the parish and the permitting process is not held up until the applicant can find an appropriate mitigation project.

A conservation easement can be required for lands on which a mitigation project is implemented, and the project must successfully create the required number of AAHUs and must be maintained for 20 years for impacted marsh or 50 years for impacted forested wetlands.

Mitigation for State Concerns

Since the parish has the second right of refusal, it can propose a mitigation project that will be offered to state concern permit applicants impacting wetlands within parish boundaries. The parish must express interest in obtaining the mitigation as soon as they receive their copy of the permit application from the state. A very general statement of interest from the parish to OCM will not be acceptable. The parish must have a specific project to offer the permit applicant. The parish can create a form letter to use and simply add the correct permit number. OCM will keep a copy of the letter of interest in the file. If the landowner exercises his first right of refusal, OCM will contact the parish. The area or project offered by the parish must already be permitted to avoid lengthy delays for the applicant.

Projects should be in-kind, but can be determined on a case by case basis.

Creating brackish marsh for saline impacts and vice versa is usually okay and creating fresh for intermediate and vice versa is usually okay too.

Although the parish has second right of refusal and offers the project, it is still only an option. The parish is not guaranteed of getting the mitigation.

Mitigation for Local Concerns

The Local Program administrator determines if mitigation is required and should notify the permit applicant. It is ultimately the responsibility of the CUP applicant, to acquire the required mitigation. However, you can clarify and help determine the applicant's options.

If the applicant purchases credits from a mitigation bank or area, the sponsor, who has formally agreed to create, restore, enhance or protect wetland habitat ecological value at a specific location, is responsible for implementing and maintaining the mitigation project.

If the affected landowner or parish has a specific mitigation project that the applicant may use as mitigation or, if the applicant develops his own project, the CUP holder will be responsible for carrying out the activity, attaining the project goals, and maintaining the mitigation project for 20 years for impacted marsh or 50 years for impacted bottomland hardwoods.

Should a monetary contribution to the landowner, parish, or State Trust fund be an acceptable option, it will fulfill the applicant's mitigation responsibility. The landowner, parish, or the State will be required to implement and maintain the pre-approved project. Be sure to keep accurate records and to submit code sheets and other data, especially monitoring information, to OCM.

Monitoring Requirements for Permits and Mitigation Projects

It is highly recommended that you include monitoring requirements for all mitigation projects that are implemented to compensate for impacts from a CUP. Examples of monitoring requirements include:

- Vegetation surveys and/or transects to observe and measure plant survival success rates;
- If plugs or other structural devices are used, the site should be monitored to assure that all structures or devices are in proper working order;
- Changes in project site elevation, erosion rates, species diversity, etc. can also be monitored;
- The permit applicant shall allow the LCP staff to inspect the project site; and
- The permit applicant should provide a brief monitoring report to the LCP with the date and results of the monitoring activity.
- All CUPs issued should also be periodically monitored to insure that the activity is occurring according to all conditions specified in the CUP.

What other agencies participate in mitigation? What roles do they play?

The Army Corps of Engineers (Corps) is the branch of the Federal Government that regulates wetland activities and enforces mitigation policies. Originally, the Corps was established as a civil works agency involved in the development and control of U.S. waterways: it built dams, dredged canals for navigation,

and constructed waterway impoundments for flood control. Now these responsibilities of the Corps are matched by its involvement in mitigation for the ecosystem destruction caused by these types of projects. In addition, the Corps also regulates mitigation that other government agencies and private developers must perform.

The United States Environmental Protection Agency (USEPA) has final authority and can reverse a Corps decision to permit a project.

Other Federal resource agencies also have a role in regulating wetland mitigation. They serve mainly as consultants to the Corps. The United States Fish and Wildlife Service (USFWS) is one of these agencies. The role of the USFWS in mitigation is to review permit proposals for impacts on wildlife habitat. The USFWS can then recommend to the Corps any changes needed in the mitigation proposals to lessen or eliminate impacts to fish and wildlife habitats. If the USFWS does not approve of a permit that has been issued, the agency can move the process to a "higher level," which means the project will be evaluated by federal standards, rather than at a regional level. In most cases, compliance or compromise is met before this type of action is taken, because it imposes a great deal of paperwork and time on the project.

NOAA's National Marine Fisheries Service (NMFS) has several roles in protecting, conserving, enhancing, and restoring coastal wetlands. Traditionally they have provided technical advice to agencies and the public on any proposed action that could have a negative affect on coastal wetlands. Based on extensive scientific and management expertise, NOAA Fisheries often recommends ways to minimize the adverse effects of a project, such as relocating a project, reducing its physical size, or delaying construction during fish spawning seasons. Since many coastal wetlands have been identified as "Essential Fish Habitat", NOAA Fisheries recommendations have added importance and influence.

NMFS is also involved in restoring coastal wetlands. When a coastal wetland is damaged by an oil spill or some other incident, NOAA Fisheries participates in determining how the person or company responsible for the accident should repair the damage.

The following table lists Louisiana state government and federal agencies that play a role in the permit and mitigation process. Some receive copies of permit applications only under certain conditions; others receive a copy of every permit.

Agency	When should an application be sent?	Who sends the application?
DNR/OCM	Send all applications to OCM for local/state determination concurrence	LCP or Applicant
Dept. of Health and Hospitals:	Send applications which include habitable structures for septic treatment or lot improvements, all CUPs and GPs	LCP or Applicant
Dept. of Wildlife and Fisheries	Send applications for projects located within proximity to scenic streams, natural heritage resources, oyster leases, oyster seedground (within ¼ mile), and wildlife refuges, and more than 5 acres of wetland impacts, all CUPs and GPs	LCP or Applicant
State Lands Office	Send every permit application to State Lands. Applications are reviewed for proximity and potential impact on state-owned lands.	OCM
Dept. of Transportation and Development	Send applications which may impact port/levee systems or navigable waters	LCP or Applicant
Dept. of Culture, Recreation, and Tourism	Send applications which are in proximity to or impact state parks, cultural resources, or historic sites.	LCP or Applicant
NOAA Fisheries (NMFS)	No need to send applications. They include comments with Corps approval process.	N/A
US Fish and Wildlife Service	Send applications which are in proximity to US wildlife refuges. A Special Use Permit may be required.	COE
US Army Corps of Engineers	All CUP permits are sent to the Corps. They may require a Section 404, Section 10, or General permit in addition to a CUP	OCM (2 copies)

What responsibilities does the LCP have to these agencies?

The LCP is responsible for coordinating with the other agencies involved in permitting and mitigation. For example, it is essential that you notify the Corps analyst ASAP (within 5 days of when you receive a local concern application) as to whether the application will be EXEMPT or not. To avoid requiring the applicant to double mitigate, the LCP should also coordinate mitigation requirements with the COE. However, remember that, according to State rules and regulations and according to the approved LCP documents, any impacts to wetlands in Louisiana's coastal zone must be mitigated for inside the coastal zone. The COE will often allow mitigation to take place not only outside parish boundaries but also

outside of the coastal zone boundary. The LCP should insist that mitigation occur, at a minimum, inside the coastal zone.

The LCP must also document and respond to comments made by other state and federal agencies. It is recommended that the LCP staff work with the applicant to provide additional information if requested by other agencies such as the LDEQ. It is suggested that you develop a working relationship with these agencies. For example, you can request that a copy of letters mailed to the applicant be sent to you so that you can help the applicant follow through with all requests and recommendations.

The LCP's responsibilities to OCM are listed and defined in the Scope of Services of the parish LCP agreement.

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Wetland Value Assessment Methodology (WVA) brief overview

Louisiana state regulations require compensation for any net loss of wetland ecological value that occurs or is anticipated to occur due to a permitted development activity. Anticipated loss of ecological values from development and anticipated gains from mitigation must be quantified as cumulative habitat units (CHUs) or average annual habitat units (AAHUs). The regulations also require that these values be calculated using the Wetland Value Assessment (WVA) Methodology.

The primary purpose of the WVA is to quantify changes in habitat quality and quantity that are projected to occur as a result of a specific project. The WVA is a community approach to wetland assessment rather than a species oriented approach. It was developed for use in coastal Louisiana wetlands and it requires only existing or readily available data. It is not a particularly difficult assessment method; however, it does require some training and experience in the basic principles of coastal wetland science and habitat. The WVA can be used to evaluate impacts occurring in fresh/intermediate marsh, brackish marsh, saline marsh, bottomland hardwoods, and fresh swamps.

The models used in the WVA were developed under the assumption that the suitability of a coastal wetland to provide fish and wildlife habitat can be characterized, assigned a value, and compared to an optimum value. Variables considered important in characterizing habitat are measured or otherwise assessed and used to calculate the existing and predicted condition of the wetland area targeted for the development or mitigation project. The suitability of the wetland to provide habitat value to fish and wildlife is predicted to change as the measured value of each variable changes. A Suitability Index (SI) graph depicts how wetland habitat quality (or the SI) is assumed to change as the measured value of ONE variable changes. The SI value ranges from 0.0 to 1.0. Once the SI associated with each variable has been determined using the SI graph, then the final wetland habitat suitability index (HSI) can be calculated. A mathematical formula combines the SI associated with each variable into a single value for an overall wetland HSI.

Important terms to remember are:

- **Suitability Index (SI):** This number represents the extent to which a wetland area is expected to provide habitat value based on the measured value of one specific variable; it is a number between 0 and 1 where 0 indicates no habitat value and 1 indicates optimum habitat value
- **Habitat Suitability Index (HSI):** This number represents the mathematical combination of all the SIs associated with each variable. It indicates the wetlands overall suitability for providing fish and wildlife habitat values. This number does not have a unit; rather it is a number between 0 and 1 where 0 indicates no habitat value and 1 indicates optimum habitat value
- **Average Annual Habitat Unit (AAHU):** This is the total number of habitat units gained or lost as a result of a proposed project divided by the life of the project. It can also be calculated by multiplying the HSI by the number of acres impacted.
- **Cumulative Habitat Unit (CHU):** This is total number of habitat units expected to be gained or lost over the entire life of the project. It is calculated by multiplying AAHUs by project length in years.

More detailed information on the WVA is available in the Wetland Value Assessment Methodology and Community Models document included at the end of this page.

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General Violation and Enforcement Information

NOTES: One of the keys to making mitigation projects successful is effective enforcement. Without effective enforcement permit noncompliance will further limit the effectiveness of mitigation to restore lost wetland functional values and maintain regional biodiversity.

Enforcement is the only way to ensure long-term accountability.

A stronger emphasis on enforcement and compliance is necessary to improve the ability of mitigation to help reach the goal of no net loss. A local coastal program also monitors for compliance with issued permit conditions and checks the parish area for any unpermitted activities.

Monitor, verify, and enforce compliance.

Explore ways to increase effective oversight: random checks or audits, budget reallocations, additional fees.

Monitoring is a critical element of a mitigation program. The parish must ensure that it is kept informed of the compliance, successes, etc. The parish can collect monitoring fees as part of mitigation project costs.

Violation monies should be collected and rules must be enforced. The money collected can be put toward more monitoring, spot checks, etc. Or if someone is caught in violation, he or she must be required to mitigate for any impacts caused.

Enforcement Procedure for Local Coastal Management Programs when possible violation activities are transferred from the state program

The situation can present itself where the state enforcement field agent will discover activities occurring in the parish of a possible violations nature that might be more applicable for local program processing in lieu of state processing.

In such cases the state program will transmit an enforcement transfer letter and enforcement code sheet (copies of the letter and code sheet follows) to the local program with instructions to the local program on the proper code sheet procedures to follow in order to maintain consistency in the permitting data base and to facilitate easy follow up on after the fact permit.

[Example Enforcement Letter](#)  (< 1MB)

[Example Enforcement Coding Form Processing as LCUP](#)  (< 1MB)

[Example Enforcement coding Form No Violation Determined](#)  (< 1MB)

The Local Coastal Permit Database

In order to develop a unified reporting process for tracking parish program permitting activities and compliance with state mitigation requirements, a web-based electronic database has been created. This database incorporates the data from the permit, impacts, and benefit code sheets you fill out. The database provides the following information for each permit issued by the parish: (1) permit number, (2) applicant, (3) parish name, (4) description of the activity, (5) specific location, (6) status of the permit application, (7) type of permit required or issued (i.e. the parish determination), (8) date issued, (9) whether the activity involved dredging or filling of wetland acres, (10) number of acres/functional values impacted, (11) type of wetland habitat impacted, (12) type of mitigation assessed, (13) number of acres/functional values created or restored, and (14) any additional information describing the permit or mitigation activities.

Collecting and documenting all of this information enables OCM to assess parish compliance with state permit and mitigation requirements, track local progress in fulfilling the goal of no net loss of wetland habitat, and evaluate what aspects of the Local Coastal Program may require revision or increased attention.

The database is available on-line and can be viewed by anyone with access to the internet. To get to the database go to [SONRIS data base](#)(webpage).

Scroll down to the Local Program Data Base and click once more. You can search for a permit using the parish number, the OCM P number, the applicant, or the parish name. If you are using the OCM permit number to access a file you must put a "P" before the number; for example P20#####.

The information in this database is available through the code sheets you send to OCM. This database is a great tool to improve communication and information sharing among the parishes, OCM, the federal agencies, and permit applicants, and their agents. Therefore, OCM encourages you to fill out all of the code sheets as quickly as possible. Please call anyone in the Interagency Office if you have any problems or questions about the code sheets.

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General Instructions on Filling Out Code Sheets

Required Coding Forms: LCP Permit, Habitat Impacts, and Habitat Benefits

Use only code sheets that are designated for LCPs, and always the most recent versions. If in doubt, call IA and ask.

These code sheets will begin with the letters LCP as in LCP Permit Coding Form, LCP Habitat Impacted Form, and LCP Habitat Benefits Form, Purchase from Bank or Area, etc. The person entering the data must be able to know to enter your data in the LCP database.

An important part of the permit process involves filling out coding forms. Correct and timely completion of these forms ensures that all relevant information about the project is available, recorded, and filed. One copy of each necessary form is kept in the LCP office permits file and a second copy is mailed to OCM.

When you begin to process a permit application, you should have in front of you all three code sheets: 1) LCP code sheet; 2) Impacted Habitat code sheet and 3) the appropriate Habitat Benefits code sheet. This will allow you to keep track of all the information you may need. If you determine that you do not need an Impact or a Benefit code sheet you can put them aside and submit only the Permit code sheet. However, having all the sheets available will make filling out those fields that appear on each code sheet easier.

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The “LCP - PERMIT CODING FORM” Instructions

The permit coding form is required for every local concern permit application you receive. What follows is a list of each field in the form with a brief description.

Each time you need to make a change to the code sheet, please mail a new one to OCM with the change written in red ink. In the date field, put the date you made the change to the form.

Prepared By: The name or initials of the person who filled out the form

Date: The day you begin filling out the form.

CUP NUMBER: The CUP number is the OCM assigned permit number. It will include nine characters. The first is always a “P” to reflect permit, the next four represent the year (e.g. 2003), and the last four are the sequential application number.

APPLICANT’S NAME: This is the name of the person applying for the permit. If the applicant has an agent who has submitted the application on his/her behalf, you still list the applicant here. If the parish is the applicant, write the parish name here not the contact’s name.

PARISH: Record here the parish in which the project or activity described in the application will be conducted.

CUBIC YARDS (whole yards): This information should be on the application. Enter the cubic yardage that will be dredged or the cubic yards of fill (or the sum thereof if the project will involve both activities).

DREDGE AND/OR FILL: This describes the dredge/fill activity. Choose from the six options listed in the LCP CODING KEY FOR PERMIT CODE SHEET.

PUBLIC NOTICE DATE: This is the date that the public notice appeared in the official parish journal.

MISC: This describes the activity for which a permit is being requested. This information should be on the application. You may choose from the list on the LCP CODING KEY FOR PERMIT CODE SHEET. If the activity defined in the application does not appear on the list, you may enter 99 (other) and explain in the COMMENTS field.

H2O BLK: This field further describes the activity for which a permit is being requested. This information should be on the application. If the project involves water control structures or any other type of structure placed in or over water this field should be filled in with a number between 1-9 from the list on the LCP CODING KEY FOR PERMIT CODE SHEET: If no structure is involved in the activity, place a 0 in the field.

DEVELOPMENT: This is another way of describing the activity for which the permit is being requested. This information should be on the application. You may choose from the list on the LCP CODING KEY FOR PERMIT CODE SHEET.

APPLICANT TYPE: This field describes the applicant. Choose among the four options listed on the LCP CODING KEY FOR PERMIT CODE SHEET.

MAJ/MIN: The following activities are defined as MINOR (code as 0)

bulkhead/backfill when length of bulkhead is less than 100' and/or fill is less than 125 cubic yards

all private piers if no dredge or fill is involved and structure does not pose a hazard to navigation

mooring piles or dolphins, provided there is no extensive commercial or industrial development proposed at the site

rip-rap or revetments less than 500' in length

maintenance dredging of individual canal-slip where dredged material will be placed on existing spoil banks or uplands and provided no eagle nests or rookeries are nearby

boat ramps/slips when 300 cubic yards or less are to be excavated and no material is deposited in waters or wetlands

single family dwellings as long as the above listed parameters are not exceeded

As a general rule, if a proposed project falls within the project description of one of OCM's general permits, you would code the permit as a minor. If you still are not sure about a major/minor determination, call someone in Interagency Affairs for assistance.

COMMENCE DATE: Date on which the permitted activity began. As part of the permit or authorization letter (if you issued a NDSI, EXEMPT, or OCZ Determination), you should require that the applicant notify you when he begins the permitted activity. OCM provides the applicant a small green postcard along with his permit or letter which he is required to mail when the activity begins. You should notify OCM of the commence date as soon as possible.

PARISH NUMBER: If your parish designates and uses a permit number other than the one assigned to the application by OCM, write it in this field.

PGP STATUS: Note whether this is a PGP category 1 or 2; if it does not qualify as a PGP, put a zero (0).

PARISH STATUS: This field defines the current and/or final condition of the permit.

Choose among the options listed on the LCP CODING KEY FOR PERMIT CODE SHEET. While most of these are self explanatory, some might seem counter intuitive.

If your DETERMINATION (see below) is NDSI (no direct or significant impact) you should enter a 31 in the STATUS field (Permit issued; no conditions).

If your DETERMINATION is EXEMPT, you should enter a 31 in the STATUS field as well (Permit issued; no conditions).

If your DETERMINATION is RFD (request for determination) and a CUP will be required, you should enter a 70 in the STATUS field.

If your Determination is RFD (request for determination) and no CUP will be required, enter a 71 in the STATUS field.

If your DETERMINATION is CUP, enter 32 in the STATUS field whether your CUP has conditions or not.

You should enter CUP in the DETERMINATION field only if you have written 32 in the STATUS field. If you enter 11 (Received/Under review), 12 (On hold for more information), etc. leave the DETERMINATION field blank. When you have issued the permit, change the STATUS to 32 by neatly crossing out the previous number and writing 32 using red ink and then enter CUP in the DETERMINATION field. (You may also use a new blank form; enter only the basic data such as P number, applicant and parish and any changes you have made.) There are several little used status codes and a few that have been revised. Familiarize yourself with the codes and statuses.

You should mail a copy of this code sheet to OCM the first time you fill one out and each time you make a change.

DETERMINATION: This describes your final decision concerning the application. Choose among the six options listed on the LCP CODING KEY FOR PERMIT CODE SHEET.

PARISH ISSUE DATE: Enter here the date on which a CUP, authorization letter, or denial is issued. CUP issue date should be entered when all applicable fees are paid and the permit is signed.

EXEMPT: Some activities for which you will receive permit applications will not require a CUP. These are listed and described in the LCP Program document. If the activity is not exempt, enter a zero (0) here. If it is exempt, choose the reason from the list on the LCP CODING KEY FOR PERMIT CODE SHEET. If you have determined that the activity is NDSI, you should enter a 6 in the EXEMPT field.

PARISH WITHDRAWAL DATE: Enter the official date an application was withdrawn if an applicant formally withdraws an application, or you, after sending withdrawal notices, withdraw an application because there has been no activity.

CONSERVATION PLAN: Put a check in the box indicating whether or not an application falls within the Conservation Plan.

COMMENTS: In this field you should enter any additional information you think will be helpful or relevant to you or OCM. For example, you may briefly describe the activity for which a permit is being requested; list if the activity will occur in a fastland or above the 5' contour.

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The “LCP - IMPACTED HABITAT FORM” Instructions

The impacted habitat form is required for every permit application you receive and process other than those you determine to be outside the coastal zone (OCZ), or which are a request for determination (RFD). *Note OCZ and RFD are the only determinations for which only the LCP – Permit Coding Form is required.

An Impact Habitat Form is required for NDSI determinations. One should be completed for EXEMPT determinations with as much information available in the application to do so. While this may seem counter intuitive, this information is necessary to track the number and location of projects and activities that occur each year in the coastal zone.

Some of the fields on this form are exactly the same as those on the LCP – PERMIT CODING FORM; they will not be reviewed again here. Most, however, are new and will require some calculations and basic research on your part.

HABITAT CODE: The habitat code uses the Cowardian Classification system. The Cowardian system is a comprehensive classification system of wetlands and deepwater habitats which was developed for the U.S. Fish and Wildlife Service. The Cowardian system is hierarchical and includes several layers of detail for wetland classification including: water flow; substrate types; vegetation types and dominant species; as well as flooding regimes and salinity levels. This system is appropriate for an ecologically based understanding of wetland definition.

You may retrieve this information from habitat maps provided by the US Fish and Wildlife Service. Please be as precise as possible when you code this field. A project may impact more than one habitat type. Fill out one entire section (2 per form) for each type of habitat that will be impacted.

DRAINAGE BASIN: The drainage basin classifications used for permitting describe streamshed/watershed boundaries. Each basin has a code which you must enter in this field.

Drainage Basin Code

Pearl River	Pearl
Mississippi River	MR
Lake Ponchartrain	PO
Barataria	BA
Terrebonne	TE
Atchafalaya River	AT
Vermilion-Teche River	TV
Mermentau River	ME
Calcasieu/ Sabine River	CS

DIST'D ACRES PROP (Disturbed Acres Proposed): Write the number of acres of each habitat type that will be impacted according to the initial proposal (one habitat type per 'section;' see above). This can be determined at a pre-application meeting, or if none took place, it will be the same as the number of acres submitted.

DIST'D ACRES SUBM (Disturbed Acres Submitted): Record the number of each habitat type submitted in the application.

DIST'D ACRES ISSUED: Record here the number of acres of each habitat type you have authorized in the permit.

AAHU (Average Annual Habitat Units Lost): Record here, to the nearest hundredth decimal place [0.00], the number of average annual habitat units you have calculated to be lost for each habitat type affected.

YEARS: Record here the number of years of impact to the habitat due to the project. This is also the number of years you have used to calculate AAHUs.

CHU LOST (Cumulative Habitat Units Lost): Record here, to the nearest hundredth decimal place [0.00], the number of cumulative habitat units that you have calculated will be lost for each habitat type affected by the project.

MIT REQ'D (Y, N, W): Yes, No, or Waiting. Is mitigation required for each of the affected habitat types? For projects which allow one growing season prior to determination, record a "W" (waiting to assess mitigation). This should be changed to a "Y" or an "N" after assessment.

ACRES MIT. REQ'D: Record here the number of acres which will have to be created to fulfill the compensatory mitigation requirement.

ADD. PERMIT REQ'D: Record "Y" for YES and "N" for NO. Is an additional permit required to perform the mitigation activity? If no mitigation is required or if mitigation requirements will be assessed after one growing season, leave this blank.

MIT PROJ CUP/CON NO: Record here the CUP number of the mitigation project used to offset the damages to each habitat type. This can be the same number as the permit authorizing the damages. If a separate permit is required for mitigation, the number may not be available initially. If this occurs enter P20#####.

COMMENTS: Record here any additional comments you feel may be helpful or relevant. If you want to comment on one specific field you may draw an arrow to the field if you so desire. If there is insufficient space on the form, use additional paper and reference the appropriate field on the form.

Additional Notes on the Impacted Habitats Form

For projects that are located in the coastal zone but in fastlands, above the 5' contour, or otherwise exempt, you are expected to fill out an Impacted Habitat Form with habitat units lost but no mitigation requirement. In the COMMENTS field put EXEMPT followed by the reason (i.e. EXEMPT: house, EXEMPT: fast lands, etc.). If the information on the application is not complete, there is no need to ask for additional information. Simply determine and enter the impacted habitats to the best of your ability using available data and maps.

For the fields related to DIST'D ACRES, the rule is to enter the acreage to the nearest tenth of an acre. In some situations this may require your best professional judgment. The database into which all of this information is coded and entered will accept values to the hundredth of an acre. When the project involves installation of a structure in open water, enter the value which represents the area beneath the structure. If the area is smaller than a tenth of an acre in size, try to determine the area to a hundredth of an acre. Every project has some impact. If the area being impacted is wetland habitat and no mitigation is required, always add a comment explaining why not.

If you have an application for a project with a small area of impact to more than one habitat type, you may have to use best professional judgment to estimate the area of impact to each habitat type. If so, make as accurate a guess as possible and make sure that they are reasonable relative to the size of the entire project.

For any project for which an applicant is given time for the impacted area to recover before a mitigation calculation is completed, enter a "W" in the MIT REQ'D field. Leave ACRES MIT REQ'D blank. After the allotted recovery time has passed, and an evaluation and WVA has been calculated, cross out the "W" and put a "Y" or an "N" in red ink in the MIT REQ'D field. If you entered a "Y" enter the correct number of acres in the ACRES MIT REQ'D field. Be sure to mail OCM a copy of your form both before and after the "recovery" time has passed. Remember to change the date as well.

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The “LCP - HABITAT BENEFITS FORM” Instructions

The habitat benefits form is required whenever a permit requires compensatory mitigation. For your purposes, all mitigation is compensatory. OCM has decided to use Habitat Benefit forms specific to the type of mitigation that will be implemented. There is a separate form for:

- A purchase from Carencro Bayou or Terracing from Miami Corp,
- A monetary contribution to the Trust Fund, landowner, or parish,
- The creation/protection of wetland habitat, and
- Purchase from a mitigation bank or area.

Indicate whether the code sheet is the first for the mitigation or whether it is a revision.

If the applicant has purchased credit from Apache-Laterre, simply copy the AAHU and the CHU value from the Impacts code sheet. This bank may be re-evaluated. When it is, you will be informed of any changes.

Purchase from Carencro Bayou or Terracing from Miami Corp:

One code sheet is used for Miami Corp and Carencro because the methodology for calculating acres created or protected is the same for both.

Follow the example instructions to determine number of acres created or protected.

Monetary contribution to the Trust Fund, landowner, or parish:

When a contribution is made to the trust fund, the AAHU and the CHU values should equal those listed on the Impacts code sheet.

If a contribution is made to a landowner or parish, the AAHUs and CHUs will be calculated when the project is approved and permitted.

Creation/Protection of wetland habitat:

This sheet is to be used for a project serving as mitigation for another impacting activity.

The original Impact activity permit will not require a benefit form. The Mitigation project will require all three code sheets (often the mitigation project itself will have some impacts and it will have to compensate for its own impacts as well as for the permit for which it is serving as mitigation)

So, you will put the P number for the mitigation project in the top portion of the code sheet, and then list the P numbers of the impacting projects for which this permit/project is serving as mitigation in the

second portion of the Benefit code sheet.

An example of a protection project is bank line stabilization that protects the wetlands behind it from eroding away

Remember, preservation is typically not accepted as a mitigation option.

Implementation/Followup: It is your responsibility to follow up on the habitat creation/protection project to determine whether the project was successful and to calculate the AAHUs actually created or protected by the project. The terms and conditions of the follow up investigation should be outlined in the conditions of the original permit. Should you need help or advice you may contact the OCM Field Investigator for your parish.

The following table shows the codes for the types of compensatory mitigation options available to an applicant. The code is prefixed by a 'K' followed by the appropriate number and sometimes a lower case letter.

Beneficial use of spoil:

- Should your parish decide to implement the beneficial use of dredge material as a mitigation option you will use this code sheet. The 'mitigation type' code begins with a 'B' (representing best practical technique). All other fields on the code sheet are self-explanatory.

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Instructions for Submitting Code Sheets and Other Permitting Data

Parish Local Coastal Management Program Data Submission to the Louisiana Coastal Resources Program

When submitting LCP Code Sheets, Wetland Value Assessment (WVA) Models, Public Notices, Field Investigation Forms, and other supporting documentation to the State Program – the proper procedure is to save the file as a .pdf and name it according to the following format:

The P#_, the date of submission, and a brief two to four letter identifier

For example, for the LCP Code Sheet for P20150001, sent on January 1, 2015: the file name would be:

P2015001_01012015CS

Similarly for the Habitat Impacts Code Sheet, Public Notice and Wetlands Valuation Assessment sent on January 15, 2015

P2015001_01152015HI

P2015001_01152015PN

P2015001_01152015WVA

The .pdf data files should be attached to an email and sent to both jon.truxillo@la.gov and donna.thompson@la.gov. The email must be titled with the P# for the file and Parish Data Submission for proper routing. You must send a separate email for each permit number; however, you can attach up to four files for the same P# in one email.

For example for an email submitting data for P2015001, the subject line of the email would read:

P2015001 Parish Data Submission

Blank LCP Coding Forms

[Permit Coding Form](#)  (<1MB)

[Impacted Habitat Form](#)  (<1MB)

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LCP Coding Keys

[LCP Coding Key for Permit Code Sheet](#)  (<1MB)

[Mitigation Types for Data Base Coding Key](#)  (<1MB)

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Blank LCP Habitat Benefits Forms with Instructions

[Purchase from a Bank or Area](#)  (<1MB)

[Purchase from Carencro Bayou or Terracing From Miami Corps](#)  (<1MB)

[Creation/Restoration/Enhancement/Protection](#)  (<1MB)

[Monetary Contribution to Trust Fund, Landowner or Parish](#)  (<1MB)

[Beneficial Use of Spoil](#)  (<1MB)

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OCM Policy and Protocol Memos

[Criteria for Determination of No Direct and Significant Impact to Coastal Waters](#) (<1MB)

[Public Notices](#) (<1MB)

[Determination of Local Concerns](#) (<1MB)

[Commenting on State Concerns](#) (<1MB)

[LCP State/Local Determination Form](#) (<1MB)

[Recommendation for New State Determinations](#)  (<1MB)

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Wetlands Value Assessment Models Workbook

[WVA workbook](#)  (1.5MB)

[Available Mitigation Banks and Areas](#) (<1MB)

[WVA Marsh Parameter Form](#) (<1MB)

[WVA Swamp Parameter Form](#) (<1MB)

[WVA Bottomland Hardwoods Parameter Form](#) (<1MB)

[CWPPRA Examples of Interspersion 2012](#)  (1MB)

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Enforcement Letter and Code Sheets


[Example Enforcement Letter](#) (< 1MB)

[Example Enforcement Coding Form Processing as LCUP](#) (< 1MB)

[Example Enforcement coding Form No Violation Determined](#) (< 1MB)

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Local Coastal Program Field Investigation Form

[Field Report Form](#) (pdf)  (<1MB)

[Field Report Form](#)  (90 MB)

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